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**CUMULATIVE SUPPLEMENT**  
**TO**  
**MISSISSIPPI CODE**  
**1972 ANNOTATED**

**Issued September, 2012**

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ENACTED THROUGH THE 2012 REGULAR SESSION**

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## **User's Guide**

In order to assist both the legal profession and the layman in obtaining the maximum benefit from the Mississippi Code of 1972 Annotated, a User's Guide has been included in the main volume. This guide contains comments and information on the many features found within the Code intended to increase the usefulness of the Code to the user.



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## **PUBLISHER'S FOREWORD**

### **Statutes**

The 2012 Supplement to the Mississippi Code of 1972 Annotated reflects the statute law of Mississippi as amended by the Mississippi Legislature through the end of the 2012 Regular Session.

### **Annotations**

Case annotations are included based on decisions of the State and federal courts in cases arising in Mississippi. Annotations to collateral research references are also included.

To better serve our customers by making our annotations more current, LexisNexis has changed the sources that are read to create annotations for this publication. Rather than waiting for cases to appear in printed reporters, we now read court decisions as they are released by the courts. A consequence of this more current reading of cases, as they are posted online on LexisNexis, is that the most recent cases annotated may not yet have print reporter citations. These will be provided, as they become available, through later publications.

This publication contains annotations taken from decisions of the Mississippi Supreme Court and the Court of Appeals and decisions of the appropriate federal courts. These cases will be printed in the following reporters:

- Southern Reporter, 3rd Series
- United States Supreme Court Reports
- Supreme Court Reporter
- United States Supreme Court Reports, Lawyers' Edition, 2nd Series
- Federal Reporter, 3rd Series
- Federal Supplement, 2nd Series
- Federal Rules Decisions
- Bankruptcy Reporter

Additionally, annotations have been taken from the following sources:

- American Law Reports, 6th Series
- American Law Reports, Federal Series
- Mississippi College Law Review
- Mississippi Law Journal

Finally, published opinions of the Attorney General and opinions of the Ethics Commission have been examined for annotations.

### **Amendment Notes**

Amendment notes detail how the new legislation affects existing sections.

### **Editor's Notes**

Editor's notes summarize subject matter and legislative history of repealed sections, provide information as to portions of legislative acts that have not been codified, or explain other pertinent information.

## **PUBLISHER'S FOREWORD**

### **Joint Legislative Committee Notes**

Joint Legislative Committee notes explain codification decisions and corrections of Code errors made by the Mississippi Joint Legislative Committee on Compilation, Revision, and Publication of Legislation.

### **Tables**

The Statutory Tables volume adds tables showing disposition of legislative acts through the 2012 Regular Session.

### **Index**

The comprehensive Index to the Mississippi Code of 1972 Annotated is replaced annually, and we welcome customer suggestions. The foreword to the Index explains our indexing principles, suggests guidelines for successful index research, and provides methods for contacting indexers.

### **Acknowledgements**

The publisher wishes to acknowledge the cooperation and assistance rendered by the Mississippi Joint Legislative Committee on Compilation, Revision, and Publication of Legislation, as well as the offices of the Attorney General and Secretary of State, in the preparation of this supplement.

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September 2012

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ANNOTATED

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§ 37-41-1. Promulgation of rules and regulations.

The State Board of Education is authorized, empowered and directed to promulgate rules and regulations for:

- (a) Setting standards for public school bus routes;
- (b) Setting standards for public school buses;
- (c) Setting standards for public school bus drivers;
- (d) Formulating procedure for selecting public school bus drivers;
- (e) Formulating courses of training for public school bus drivers and mechanics, and assist in administering and financing such courses;
- (f) Providing operation procedure for public school buses to insure safety of pupils;
- (g) Formulating specifications for use in purchasing public school buses; getting bids on public school buses; equipment and supplies; and fixing prices based upon said bids which school districts may not exceed in purchasing said equipment;
- (h) Formulating specifications for use by school districts in purchasing used school buses; and
- (i) Providing a system of records and reports for the purpose of carrying out the provisions of Sections 37-41-1 through 37-41-51, and providing the superintendent of schools with a sufficient supply of report forms.

All rules and regulations adopted and promulgated by the State Board of Education relating to school bus drivers shall also be applicable to drivers of privately owned buses transporting public school children.

All rules and regulations adopted and promulgated by the State Board of Education pursuant to the authority conferred by this section shall be spread at large upon the minutes of the State Board of Education and copies thereof

shall be furnished to all school boards not less than thirty (30) days prior to the effective date of such rules and regulations.

**SOURCES:** Codes, 1942, § 6336-11; Laws, 1953, Ex Sess, ch. 15, § 10; Laws, 1973, ch. 339, § 1; Laws, 1974, ch. 499; Laws, 1981, ch. 482, § 2; Laws, 1986, ch. 492, § 129; Laws, 2004, ch. 357, § 10; Laws, 2010, ch. 483, § 1, eff from and after July 1, 2010.

**Editor's Note** — Laws of 2011, ch. 481, § 8, provides:

“SECTION 8. (1) There is created the Mississippi School Bus Safety Task Force which shall be composed of nine (9) members as follows:

“(a) Three (3) members appointed by the Speaker of the House of Representatives, one (1) of whom shall be appointed from the membership of the House of Representatives;

“(b) Three (3) members appointed by the Lieutenant Governor, one (1) of whom shall be appointed from the membership of the Senate; and

“(c) Three (3) members appointed by the Governor.

“(2) At its first meeting, the task force shall elect a chairman and vice chairman from its membership and shall adopt rules for transacting its business and keeping records. Members of the task force shall receive a per diem in the amount provided in Section 25-3-69 for each day engaged in the business of the task force. Members of the task force other than legislative members shall receive reimbursement for travel expenses incurred while engaged in official business of the task force in accordance with Section 25-3-41; legislative members of the task force shall receive the expense allowance provided for in Section 5-1-47.

“(3) The duties of the task force shall be to:

“(a) Make a comprehensive study of school bus safety designs and technology related to safety and law enforcement.

“(b) Examine and study approaches taken by other states in the implementation and costs of school bus safety.

“(c) Research and develop recommendations relating to school bus safety.

“(4) The task force shall publish its findings and recommendations with any proposed legislation in a report to the Governor and the Legislature to be made on or before December 31, 2011.

“(5) The task force shall stand dissolved on January 1, 2012.”

**Amendment Notes** — The 2010 amendment deleted former (b), (h) and (l), which read: “Approving or disapproving plans for public school routes,” “Furnishing consultative supervision for the operation of county school bus garages, and approving plans for such garages and the proposed expenditure of transportation funds therefor,” and “Conduct upon said buses” respectively, and redesignated the remaining subsections accordingly; and deleted former (m), which read: “The method by which, and the circumstances in which, any individual who is not a student scheduled to be a passenger upon that particular bus, a member of the public school administration or faculty, or a law enforcement official may obtain entry upon said buses.”

## § 37-41-7. Laying out of routes within county; supplemental funds.

The local school board is hereby authorized, empowered and directed to lay out all transportation routes and provide transportation for all school children who are entitled to transportation within their respective counties and school districts.



Any school district may, in the discretion of the school board, expend funds from any funds available to the school district other than minimum education program funds, including the amounts derived from district tax levies, sixteenth section funds, and all other available funds, for the purpose of supplementing funds available to the school board for paying transportation costs, not covered by minimum education program funds.

**SOURCES:** Codes, 1942, § 6336-01; Laws, 1953, Ex Sess, ch. 15, § 1; Laws, 1954, ch. 274, § 1; Laws, 1982, ch. 354, § 3; Laws, 1986, ch. 492, § 132; Laws, 2010, ch. 483, § 2, eff from and after July 1, 2010.

**Amendment Notes** — The 2010 amendment deleted “subject to the approval of the State Department of Education, in accordance with such laws as may be provided in this chapter and such rules and regulations as may be promulgated or prescribed by the State Board of Education” following “empowered and directed” in the first paragraph.

### §§ 37-41-17 and 37-41-19. Repealed.

Repealed by Laws of 2010, ch. 483, § 7, effective from and after July 1, 2010.

§ 37-41-17. [Codes, 1942, § 6336-05; Laws, 1953, Ex Sess, ch. 15, § 4; Laws, 1968, ch. 401, § 1; Laws, 1980, ch. 339, § 1; Laws, 1982, ch. 354, § 5; Laws, 1986, ch. 492, § 134.]

§ 37-41-19. [Codes, 1942, § 6336-06; Laws, 1953, Ex Sess, ch. 15, § 5; Laws, 1968, ch. 402, § 1; Laws, 1980, ch. 339, § 2; Laws, 1982, ch. 354, § 6; Laws, 1986, ch. 492, § 135.]

**Editor’s Note** — Former §§ 37-41-17 and 37-41-19 provided standards for school district transportation plans.

### § 37-41-21. Prohibition on transporting certain pupils; exceptions.

It shall be unlawful to transport pupils who are not entitled to such transportation, or to transport pupils from one (1) district to another if their grade or grades are taught in a school within the district wherein they reside, unless the transfer of such children from the district in which they reside to such districts shall have been approved in the manner provided by law. It shall be further unlawful for the school board to expend funds from any source whatsoever for the transportation of pupils from one (1) district to another district if their grade or grades are taught in a school within the district wherein they reside, unless the transfer of such children from the district in which they reside to such other district shall have been approved in the manner provided by law.

**SOURCES:** Codes, 1942, § 6336-07; Laws, 1953, Ex Sess, ch. 15, § 6; Laws, 1958, ch. 313; Laws, 1982, ch. 354, § 7; Laws, 1986, ch. 492, § 136; Laws, 2010, ch. 483, § 3, eff from and after July 1, 2010.

**Amendment Notes** — The 2010 amendment deleted the former first sentence, which read: “Only pupils who are entitled to transportation shall be reported in the proposed plans”; and in the first sentence, substituted “It shall be unlawful to transport pupils who are not entitled to such transportation, or to transport pupils from one (1) district to another” for “It shall be unlawful for the State Board of Education to allot any state funds to any school district for the transportation of pupils who are not entitled to such transportation, or for the transportation of pupils from one district to another.”

**§ 37-41-27. School buses may be used for special events and during emergencies; school buses may be used to transport citizens attending air show on military base under certain circumstances.**

The local school boards, subject to rules and regulations promulgated by the State Board of Education, may permit the use of publicly owned school buses for the transportation of participating students, teachers, coaches and sponsors in connection with athletic events, events of boys’ and girls’ clubs and special events in connection with the schools which the boards may consider a part of the educational program. The local school boards, subject to rules and regulations promulgated by the State Board of Education, may permit the use of publicly owned school buses for the transportation of citizens for grand jury and other jury functions upon order of the court or as considered necessary by the school board during natural or man-made emergencies, hurricanes, tornadoes, floods and other acts of God. The local school boards, subject to rules and regulations promulgated by the State Board of Education, may permit the use of publicly owned school buses for the transportation of citizens attending an air show held on a military base located in the school district; provided that such determination shall be made upon the minutes of the school board and shall include an agreement with the military base that it will indemnify and hold the school district harmless in any action regarding such transportation.

**SOURCES:** Codes, 1942, § 6336-12; Laws, 1953, Ex Sess, ch. 15, § 11; Laws, 1968, ch. 403, § 1; Laws, 1975, ch. 304; Laws, 1982, ch. 354, § 9; Laws, 1986, ch. 492, § 138; Laws, 2011, ch. 404, § 1, eff from and after passage (approved Mar. 14, 2011.)

**Amendment Notes** — The 2011 amendment added the last sentence in the paragraph.

**§ 37-41-29. Private transportation of pupils shall be replaced by public transportation; continuation of existing or approval of new private contracts under certain circumstances; contents of contract.**

It shall be the duty of the school boards, as existing private contracts providing for transportation of school pupils expire, to replace such private transportation with publicly owned transportation unless publicly owned transportation is deemed impractical. The school boards may acquire, when so requested by holders of private transportation contracts, from such holders of

private transportation contracts, all buses which, in the opinion of the school boards, can be practicably operated as units of the public transportation system. The actual market value shall be paid therefor, said value to be determined by an appraisal by three (3) experienced and impartial citizens, the selection of whom shall be mutually agreed upon by the parties thereto.

It shall be the duty of the school boards to approve the continuation of present private contracts providing for transportation of school pupils, or to approve new contracts entered into whenever it is deemed that the needs of the pupils can best be served by such method of transportation. However, in no case shall the amount allotted per pupil from state funds for transportation in facilities provided by private contracts exceed the amount allowed per pupil from state funds for public transportation in the same county and district.

Before any money is allocated or disbursed from the state transportation funds to any school board which is transporting children under private contracts, written contracts shall be entered into by and between the respective carriers and school boards. A copy of each contract shall be filed with the superintendent of schools. The aforesaid contract shall contain, at a minimum, the cost of services to be provided to include all necessary bus routes as well as the cost of school-approved activities such as field trips, the length of the contract, the terms of the utilization of existing pupil transportation facilities and existing fleet of buses, if applicable, the necessary types and amounts of limits of insurance that will protect the district, to include Workers' Compensation Insurance. Certificates of insurance shall provide that a thirty-day prior notice of cancellation will be given to the district. The contractor shall comply with all state laws and the State Board of Education policies pertaining to pupil transportation services, including the requirement that (a) school buses used by such contractor shall comply with the Mississippi Minimum Standards for School Buses established by the State Board of Education, and (b) all school bus drivers employed by such contractor shall be trained and certified by the State Department of Education.

Local school boards are not required to file a copy of any private contract for the transportation of exceptional children or the transportation of children under extraordinary circumstances with the State Board of Education.

**SOURCES:** Codes, 1942, §§ 6336-13, 6336-16; Laws, 1953, Ex Sess, ch. 15, §§ 12, 15; Laws, 1966, ch. 415, § 1; Laws, 1982, ch. 354, § 10; Laws, 1986, ch. 492, § 139; Laws, 1988, ch. 466, § 4; Laws, 2004, ch. 357, § 11; Laws, 2010, ch. 483, § 4, eff from and after July 1, 2010.

**Amendment Notes** — The 2010 amendment rewrote the first sentence in the second paragraph, which formerly read: "With the approval of the State Board of Education, present private contracts providing for transportation of school pupils may be continued, or new contracts may be entered into whenever it is deemed that the needs of the pupils can best be served by such method of transportation"; and in the third paragraph, rewrote the third sentence (former last sentence), which formerly read: "The aforesaid contract shall show the length of the route, the amount of money to be paid the carrier, the type and condition of the bus, and any other information which may be required by the State Board of Education" and added the last two sentences.



**§ 37-41-31. Awarding of private transportation contracts.**

In each case where pupils are transported to and from the public schools in this state in privately owned vehicles, the contract for such transportation shall be let to the lowest responsible bidder who is able to furnish a solvent bond for the faithful performance of his contract. This shall be done after each route over which such pupils are to be transported has been laid out and established as provided in this chapter. Such contracts shall be awarded upon receipt of sealed bids or proposals after the time and place of letting such contracts and the manner of bidding have been duly advertised in some newspaper published in the county in accordance with the procedures provided in Section 31-7-13(c). If no newspaper is published in the county, then the advertisement shall be made by publication for the required time in some newspaper having a general circulation therein, and, in addition, by posting a copy thereof for that time in at least three (3) public places in the county, one (1) of which shall be at the county courthouse in each judicial district of the county. The awarding of all such contracts shall, however, in all respects be subject to the provisions of Section 37-41-29.

Private contracts for the transportation of exceptional children, as defined in Section 37-23-3, may be negotiated by the local school board without the necessity of the advertising for or taking of bids. The same may apply under extraordinary circumstances where regular transportation is considered to be impractical. The local school board may negotiate and contract for the transportation described in this paragraph so long as the local school board complies with the school transportation regulations promulgated by the State Board of Education.

Contracts shall be made for four (4) years, at the discretion of the local school board. Any and all bids may be rejected. At the expiration of any transportation contract, if the school board believes a route should remain substantially as established and finds that the carrier thereon has rendered efficient and satisfactory services it may extend the contract for not more than four (4) years, subject, however, to the provisions of Section 37-41-29.

**SOURCES:** Codes, 1942, § 6336-16; Laws, 1953, Ex Sess, ch. 15, § 15; Laws, 1966, ch. 415, § 1; Laws, 1982, ch. 354, § 11; Laws, 1986, ch. 492, § 140; Laws, 1988, ch. 466, § 5; Laws, 1997, ch. 484, § 1; Laws, 2003, ch. 539, § 6; Laws, 2010, ch. 483, § 5, eff from and after July 1, 2010.

**Amendment Notes** — The 2010 amendment, in the second sentence in the second paragraph, deleted “with prior approval of the State Department of Education” from the end; and in the last sentence in the last paragraph, deleted “with the approval of the State Board of Education” following “satisfactory services it may.”

**§ 37-41-53. Inspections and safety requirements for motor vehicles used for public school transportation; condemnation of unsafe school buses; penalties for operation of condemned bus.**

**SOURCES:** Codes, 1942, § 6365; Laws, 1932, ch. 258; Laws, 1982, ch. 354, § 18; Laws, 1986, ch. 492, § 146; Laws, 1992, ch. 351, § 1; Laws, 2006, ch. 417, § 13; reenacted without change, Laws, 2009, ch. 345, § 28, eff from and after June 30, 2009.

**Editor's Note** — This section was reenacted without change by Laws of 2009, ch. 343, § 28, effective from and after June 30, 2009. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

**Amendment Notes** — The 2009 amendment reenacted the section without change.

**§ 37-41-55. Duties of driver of school transportation vehicle used to transport pupils upon approaching railroad crossing or highway intersection.**

(1) The driver of every school transportation vehicle used to transport pupils, on approaching any railroad crossing, shall bring the vehicle to a complete stop within fifty (50) feet but not less than fifteen (15) feet from the nearest rail of the railroad. While stopped, the driver shall open the service door and driver's window, and look and listen for:

(a) Approaching trains or any other vehicle operated upon the rails for the purpose of maintenance of railroads, including, but not limited to, all hi-rail vehicles and on-track maintenance machines; and

(b) Signals indicating the approach of a train or other vehicle or machine operated upon the rails.

The driver shall not proceed until the driver has determined that it is safe to proceed.

(2) The driver of every school transportation vehicle used to transport pupils, on approaching any highway intersection, shall bring the vehicle to a complete stop and shall not proceed until the driver has determined that it is safe to proceed.

(3) Any driver who fails to bring his vehicle to a complete stop and follow the procedures as herein required is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than One Hundred Dollars (\$100.00) nor more than Two Hundred Fifty Dollars (\$250.00) for each offense.

**SOURCES:** Codes, 1942, § 6339; Laws, 1938, ch. 236; Laws, 1982, ch. 354, § 19; Laws, 2003, ch. 559, § 1; Laws, 2011, ch. 327, § 2, eff from and after July 1, 2011.

**Amendment Notes** — The 2011 amendment rewrote the section.

**Cross References** — Duties of driver of motor vehicle carrying passengers for hire upon approaching railroad crossing, see § 63-3-1011.



### § 37-41-59. Mounting camera on school bus retractable, hand-operated stop sign.

Every school district is authorized to mount a camera on any retractable, hand-operated stop sign that is a part of the equipment of a school bus.

**SOURCES:** Laws, 2011, ch. 481, § 6, eff from and after July 1, 2011.

**Editor's Note** — Chapter 481, Laws of 2011, which enacted this section, is known as “Nathan’s Law.”

### § 37-41-61. Information campaign on school bus safety.

To the extent that state, federal or other funds are available or appropriated, the Department of Transportation and the Department of Education shall cooperate to conduct an information campaign to educate drivers concerning the provisions of this act and the importance of school bus safety.

**SOURCES:** Laws, 2011, ch. 481, § 7, eff from and after July 1, 2011.

## PURCHASE OF SCHOOL TRANSPORTATION EQUIPMENT AND EMPLOYMENT OF DRIVERS

SEC.

37-41-89. Authority to borrow money.

### § 37-41-89. Authority to borrow money.

The school board of any school district may borrow money for the purchase of school transportation equipment or to establish, erect and equip school bus shops or garages, and purchase land therefor, and issue the negotiable notes or bonds of the school district as evidence of the indebtedness so incurred.

**SOURCES:** Codes, 1942, § 6367-05; Laws, 1953, Ex Sess, ch. 18, § 5; Laws, 1982, ch. 354, § 24; Laws, 1986, ch. 492, § 151; Laws, 2010, ch. 483, § 6, eff from and after July 1, 2010.

**Amendment Notes** — The 2010 amendment deleted “with the approval of the State Board of Education” following “any school district.”

## CHAPTER 43

### Textbooks

SEC.

37-43-1. Purpose of chapter; distribution of textbooks to schools and pupils; definition of “board” and “textbook.”

37-43-25. Retention of specimen copies of textbooks, contracts and bonds, and copies of bids.

**§ 37-43-1. Purpose of chapter; distribution of textbooks to schools and pupils; definition of “board” and “textbook.”**

(1) This chapter is intended to furnish a plan for the adoption, purchase, distribution, care and use of free textbooks to be loaned to the pupils in all elementary and high schools of Mississippi.

(2) The books herein provided by the State Board of Education, which shall be the State Textbook Procurement Commission, shall be distributed and loaned free of cost to the children of the free public schools of the state and of all other schools located in the state, which maintain educational standards equivalent to the standards established by the State Department of Education for the state schools as outlined in the Approval Requirements of the State Board of Education for Nonpublic Schools.

(3) Teachers shall permit all pupils in all grades of any public school to carry to their homes for home study, the free textbooks loaned to them, and any other regular textbooks whether they be free textbooks or not.

(4) For the purposes of this chapter, the term “board” shall mean the State Board of Education.

(5) “Textbook” shall be defined as any medium or manual of instruction which contains a systematic presentation of the principles of a subject and which constitutes a major instructional vehicle for that subject.

(6) In addition to the authority granted in this chapter, local school boards shall make available to the parents or legal guardians of any children of school age who reside in the school district administered by the school board, upon request, any textbooks on the state surplus inventory list. The parent or legal guardian is responsible for the return of the textbook(s) to the local school district upon completion of the textbook(s) use. Failure to return the textbook(s) to the school district will result in the parents or legal guardians being responsible for compensating the school district for the fair market value of the textbook(s).

**SOURCES:** Codes, 1942, §§ 6656, 6658; Laws, 1940, ch. 202; Laws, 1942, ch. 152; Laws, 1944, ch. 149, § 1; Laws, 1981, ch. 507, § 2; reenacted, Laws, 1983, 1st Ex Sess, ch. 2, § 1; Laws, 1984, ch. 404, § 1; Laws, 1985, ch. 395, § 1; Laws, 1986, ch. 349, § 1; reenacted and amended, Laws, 1987, ch. 481, § 2; Laws, 1994, ch. 405, § 1; Laws, 2006, ch. 555, § 1; Laws, 2008, ch. 414, § 1; Laws, 2011, ch. 348, § 3, eff from and after July 1, 2011.

**Amendment Notes** — The 2008 amendment extended the date of the repealer for (6) by substituting “July 1, 2011” for “July 1, 2008.”

The 2011 amendment deleted the former last sentence of (6) which read: “This subsection shall stand repealed on July 1, 2011.”

**§ 37-43-25. Retention of specimen copies of textbooks, contracts and bonds, and copies of bids.**

Specimen copies of all textbooks, which have been made the basis of contracts under the provisions of this chapter, clearly marked and identified as such, shall be deposited by the publisher of said books with the State

Superintendent of Public Education. Said specimen copies shall be preserved and kept open for inspection by the public.

A copy of all contracts and bonds executed under the provisions of this chapter shall be provided to the following, one (1) copy for the contractor, one (1) copy to be filed in the Office of the Secretary of State, and one (1) copy to be filed in the office of the State Superintendent of Public Education.

An original of each bid, whether accepted or rejected, shall be filed and preserved in the office of the State Superintendent of Public Education for at least five (5) years.

**SOURCES:** Codes, 1942, § 6642; Laws, 1940, ch. 202; Laws, 1981, ch. 507, § 14; reenacted, Laws, 1983, 1st Ex Sess, ch. 2, § 13; Laws, 1984, ch. 404, § 13; Laws, 1985, ch. 395, § 13; Laws, 1986, ch. 349, § 13; reenacted and amended, Laws, 1987, ch. 481, § 7; Laws, 2011, ch. 405, § 1, eff from and after July 1, 2011.

**Amendment Notes** — The 2011 amendment, in the second paragraph, added “A copy of” to the beginning, and substituted “provided to the following” for “executed in triplicate” following “provisions of this chapter shall be.”

## CHAPTER 47

### State Aid for Construction of School Facilities

#### § 37-47-15. Approval of use of grants; surveys and plans.

#### ATTORNEY GENERAL OPINIONS

Each county is required under Miss. Code Ann. § 19-7-1 to build a jail within the corporate limits of the municipality where the courts are required to sit. A municipality is obligated to grant a special exception to its zoning ordinances unless it is determined, consistent with

the facts, that construction of a county jail would create a public nuisance or a clear and present danger to the public health and welfare. Yancey, Mitchell, March 23, 2007, A.G. Op. #07-00120, 2007 Miss. AG LEXIS 75.

## CHAPTER 57

### Taxation

Additional Tax Levy to Support School Districts' Expenditures ..... 37-57-101

#### ADDITIONAL TAX LEVY TO SUPPORT SCHOOL DISTRICTS' EXPENDITURES

SEC.  
37-57-108. Issuance of promissory notes by school districts in event of revenue shortfall.



## § 37-57-105. Authorization and procedure for levy.

**Editor's Note** — Section 37-22-1, referred to in the last sentence of the second paragraph of (1), was repealed by Laws of 1997, ch. 612, § 30, eff from and after July 1, 2002.

### ATTORNEY GENERAL OPINIONS

In accordance with Section 57-3-33, projects and property financed under the provisions of said chapter are exempt from all taxation except taxes levied pursuant to Section 27-65-21, Sections 37-57-105 and 37-59-23, and taxes levied pursuant to Sec-

tion 27-39-329 when said tax is levied expressly "for school district purposes"; a tax levied under Section 37-29-141 for the support of junior (community) college districts is not for "school district purposes." Beech, Mar. 17, 2006, A.G. Op. 06-0009.

## § 37-57-108. Issuance of promissory notes by school districts in event of revenue shortfall.

In the event that the amount of revenue collected or estimated to be collected from local sources, on behalf of a school district during a fiscal year, is less than the amount provided for in the duly adopted budget of said school district for the fiscal year, then the school district may issue promissory notes in an amount and in the manner set forth in Section 27-39-333, not to exceed the estimated shortfall of revenue from local sources, but in no event to exceed twenty-five percent (25%) of its budget anticipated to be funded from the sources of the shortfall for the fiscal year. A school district issuing notes under the provisions of this section shall not be required to publish notice of its intention to do so or to secure the consent of the qualified electors or the tax levying authority of such school district.

**SOURCES:** Laws, 1993, ch. 562, § 5; Laws, 2005, 5th Ex Sess, ch. 23, § 1; Laws, 2006, ch. 308, § 1; Laws, 2008, ch. 556, § 2, eff from and after July 1, 2008.

**Editor's Note** — Section 1 of Chapter 23, Laws of 2005, 5th Extraordinary Session, provided for two versions of this section; the first version was effective from and after October 24, 2005, through June 30, 2007, and the second version was effective from and after July 1, 2007.

Section 2 of Chapter 556, Laws of 2008, provided for two versions of this section; the first version was effective from and after July 1, 2008, through June 30, 2010, and the second version was effective from and after July 1, 2010.

**Amendment Notes** — The 2008 amendment provided for two versions of this section; and in the first version, effective from and after July 1, 2008, through June 30, 2010, added (2).

### ATTORNEY GENERAL OPINIONS

A school district may submit a budget which reflects the full amount of local tax revenues deemed necessary (within statutory limitations on increases) for operational purposes, but which deducts up to the amount available to be drawn by the

district on a CD loan for that fiscal year from the final ad valorem tax effort for support the district requests from the levying authority, and then make a CD loan draw for the difference between the amount budgeted and the amount col-

lected from the local ad valorem tax levy for school operations. Bounds, Sept. 29, 2006, A.G. Op. 06-0461.

## CHAPTER 59

### School Bonds and Obligations

Article 1.	Authority to Issue Bonds, Notes and Certificates of Indebtedness .....	37-59-1
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#### ARTICLE 1.

#### AUTHORITY TO ISSUE BONDS, NOTES AND CERTIFICATES OF INDEBTEDNESS.

SEC.	
37-59-7.	Issuance of bonds in amount exceeding limitation of Section 37-59-5.

### § 37-59-7. Issuance of bonds in amount exceeding limitation of Section 37-59-5.

(1)(a) Any school district in which the total number of pupils enrolled at any one time during the school year shall have increased by at least twenty percent (20%) or an average of three hundred fifty (350) or more annually within the preceding five (5) years, shall not issue bonds for the purposes authorized by law in an amount which when added to all of its then outstanding bonded indebtedness, shall result in the imposition on any of the property in such district of an indebtedness for school purposes of more than twenty-five percent (25%) of the assessed value of the taxable property within such district according to the then last completed assessment for taxation.

(b) Any school district in which the total number of pupils enrolled at any one time during the school year shall have increased by at least ten percent (10%) within the preceding five (5) years shall not issue bonds for the purposes authorized by law in an amount which, when added to all of its then outstanding bonded indebtedness, shall result in the imposition on any of the property in such district of an indebtedness for school purposes of more than twenty percent (20%) of the assessed value of the taxable property within such district according to the then last completed assessment for taxation.

(c) The pupil increase mentioned in this subsection shall apply only to growth in pupil enrollment and shall not apply to pupil increases brought about by consolidation of school districts.

(2) Any school district may hereafter issue bonds in an amount exceeding the limit of Section 37-59-5 for the purpose of constructing, reconstructing, repairing, equipping, remodeling or enlarging school buildings and related facilities, as described in subsection (a) of Section 37-59-3, but no such district shall issue bonds in an amount which when added to all of its then outstanding

bonded indebtedness, shall result in the imposition on any of the property in such district of an indebtedness for such school purposes of more than twenty percent (20%) of the assessed value of the taxable property in such district, according to the then last completed assessment for taxation, regardless of whether any of such indebtedness shall have been incurred by such district or by another school district or districts:

(a) In the event of the damage to or destruction of any school building or school buildings, or related facilities of any such district by fire, wind-storm, flood or other providential and unforeseeable cause; or

(b) In the event such school district has lost its accreditation and the constructing, reconstructing, repairing, equipping, remodeling or enlarging of such school buildings and related facilities is necessary for the restoration of such accreditation.

(3) In any school district wherein more than nine percent (9%) of the total land area of the school district is owned by the federal government and situated in a flood control reservoir or maintained as a part of the national forest system, the said school district may issue bonds in an amount, which when added to all of its then outstanding bonded indebtedness for school purposes, shall result in the imposition on any of the property in such school district of an indebtedness for school purposes of not more than twenty percent (20%) of the assessed value of the taxable property within such district, according to the then last completed assessment for taxation, regardless of whether any of such indebtedness shall have been incurred by such district or by another school district or districts. If bonds in an amount in excess of fifteen percent (15%) of the total assessed value of the property of a school district are issued under the provisions of this subsection, not less than twenty-five percent (25%) of the total funds received by the school district under the provisions of Section 49-19-23, Mississippi Code of 1972, shall be paid into the bond and interest sinking fund of such district and used for the retirement of the bonds so issued.

(4) In any district where the assessed valuation per pupil is less than seventy-five percent (75%) of the average of all school districts, such school district may issue bonds for the purposes authorized by Section 37-59-3 in an amount exceeding the fifteen percent (15%) debt limitation set forth in Section 37-59-5, but not exceeding an amount which, when added to all of the school district's then outstanding bonded indebtedness, shall result in the imposition on any of the property in such district of an indebtedness for such school purposes of more than twenty-five percent (25%) of the assessed value of the taxable property in such district, according to the then last completed assessment for taxation if:

(a) The board of trustees or board of education of the school district adopts a resolution finding that issuing bonds in an amount exceeding the limitation stated in Section 37-59-5 is necessary to provide or maintain adequate educational facilities within the school district; and

(b) The notice of the bond election required by Section 37-59-13 contains a provision notifying the qualified electors in the school district:



(i) Of the fact that the proposed bonds, if issued, will exceed the fifteen percent (15%) debt limit contained in Section 37-59-5; and

(ii) Of the reasons why the school district is proposing to exceed said limitation;

(c) The election is held and the proposed bond issue receives the requisite voter approval as set forth in Section 37-59-17.

**SOURCES:** Codes, 1942, § 6532-02; Laws, 1950, ch. 231, § 2; Laws, 1955, Ex Sess, chs. 52, 60; Laws, 1962, ch. 361; Laws, 1968, ch. 403, § 1; Laws, 1986, ch. 492, § 169; brought forwarded and amended, 1987, ch. 307, § 25; Laws, 1995, ch. 440, § 1; Laws, 2008, ch. 377, § 1, eff from and after July 1, 2008.

**Amendment Notes** — The 2008 amendment, in (1)(a), inserted “or an average of three hundred fifty (350) or more annually,” and made a minor stylistic change; added (1)(b); and substituted “in this subsection” for “hereinabove” in (1)(c).

## § 37-59-23. Levy of special tax to pay principal and interest on bonds.

### ATTORNEY GENERAL OPINIONS

In accordance with Section 57-3-33, projects and property financed under the provisions of said chapter are exempt from all taxation except taxes levied pursuant to Section 27-65-21, Sections 37-57-105 and 37-59-23, and taxes levied pursuant to Section 27-39-329 when said tax is

levied expressly “for school district purposes”; a tax levied under Section 37-29-141 for the support of junior (community) college districts is not for “school district purposes.” Beech, Mar. 17, 2006, A.G. Op. 06-0009.

## § 37-59-29. Disposition of proceeds of bonds; liability for diversion of funds.

### ATTORNEY GENERAL OPINIONS

Use of bond proceeds to construct and equip a new elementary school and new middle school with both separate and

common facilities would not violate Section 37-59-29. Adams, Mar. 4, 2005, A.G. Op. 05-0072.

## CHAPTER 61

### Expenditure of School Funds; Budgets

SEC.

- 37-61-8. Preparation and submission of plan to reduce costs in school district required under certain circumstances [Repealed effective July 1, 2015].
- 37-61-33. Education Enhancement Fund; appropriations from fund; certain funds from working cash-stabilization reserve fund transferred to education enhancement fund; school district procurement cards.

**§ 37-61-8. Preparation and submission of plan to reduce costs in school district required under certain circumstances [Repealed effective July 1, 2015].**

(1) Whenever a school district has an ending fund balance in the maintenance fund of the school district which is an amount equal to less than seven percent (7%) of the total revenue deposited into the district maintenance fund during that fiscal year, the school board of the school district shall prepare and file with the State Department of Education a plan under which the district intends to reduce costs in the district. The plan must be submitted by the school board to the department contemporaneously with the budgetary information required under Section 37-61-9(2).

(2) The State Board of Education may adopt rules and regulations prescribing the specific contents required to be included in a plan submitted by a local school board to the department under subsection (1) of this section. The rules and regulations may include provisions addressing the following matters:

(a) A description of the financial data or documents and budgetary information that a district must submit to the department;

(b) A description of the manner by which the school district intends to achieve costs savings, demonstrated by actual reductions in budgeted expenditures;

(c) A requirement that before a school board makes expenditure cuts by reductions in the number of instructional employees or by reducing any discretionary supplemental amounts paid to instructional personnel, significant cost savings must be demonstrated by reducing the number of noninstructional personnel or the amounts paid to those employees, or both; and

(d) Any other information deemed necessary by the State Board of Education.

(3) After analyzing a plan that has been filed with the department under subsection (1), the department shall either approve the plan as submitted by the school board or alternatively, withhold approval and return the plan to the district with guidance or instructions, which may require resubmission of the plan by the school board for further review after changes have been made to the plan.

(4) This section shall stand repealed on July 1, 2015.

**SOURCES:** Laws, 2010, ch. 486, § 1; Laws, 2012, ch. 345, § 1, eff from and after July 1, 2012.

**Amendment Notes** — The 2012 amendment deleted “During the 2010, 2011 and 2012 fiscal years” from the beginning of (1); and extended the repealer provision in (4), from “July 1, 2012” to “July 1, 2015.”



**§ 37-61-33. Education Enhancement Fund; appropriations from fund; certain funds from working cash-stabilization reserve fund transferred to education enhancement fund; school district procurement cards.**

(1) There is created within the State Treasury a special fund to be designated the "Education Enhancement Fund" into which shall be deposited all the revenues collected pursuant to Sections 27-65-75(7) and (8) and 27-67-31(a) and (b).

(2) Of the amount deposited into the Education Enhancement Fund, Sixteen Million Dollars (\$16,000,000.00) shall be appropriated each fiscal year to the State Department of Education to be distributed to all school districts. Such money shall be distributed to all school districts in the proportion that the average daily attendance of each school district bears to the average daily attendance of all school districts within the state for the following purposes:

(a) Purchasing, erecting, repairing, equipping, remodeling and enlarging school buildings and related facilities, including gymnasiums, auditoriums, lunchrooms, vocational training buildings, libraries, teachers' homes, school barns, transportation vehicles (which shall include new and used transportation vehicles) and garages for transportation vehicles, and purchasing land therefor.

(b) Establishing and equipping school athletic fields and necessary facilities connected therewith, and purchasing land therefor.

(c) Providing necessary water, light, heating, air-conditioning and sewerage facilities for school buildings, and purchasing land therefor.

(d) As a pledge to pay all or a portion of the debt service on debt issued by the school district under Sections 37-59-1 through 37-59-45, 37-59-101 through 37-59-115, 37-7-351 through 37-7-359, 37-41-89 through 37-41-99, 37-7-301, 37-7-302 and 37-41-81, or debt issued by boards of supervisors for agricultural high schools pursuant to Section 37-27-65, if such pledge is accomplished pursuant to a written contract or resolution approved and spread upon the minutes of an official meeting of the district's school board or board of supervisors. The annual grant to such district in any subsequent year during the term of the resolution or contract shall not be reduced below an amount equal to the district's grant amount for the year in which the contract or resolution was adopted. The intent of this provision is to allow school districts to irrevocably pledge a certain, constant stream of revenue as security for long-term obligations issued under the code sections enumerated in this paragraph or as otherwise allowed by law. It is the intent of the Legislature that the provisions of this paragraph shall be cumulative and supplemental to any existing funding programs or other authority conferred upon school districts or school boards. Debt of a district secured by a pledge of sales tax revenue pursuant to this paragraph shall not be subject to any debt limitation contained in the foregoing enumerated code sections.

(3) The remainder of the money deposited into the Education Enhancement Fund shall be appropriated as follows:

(a) To the State Department of Education as follows:

(i) Sixteen and sixty-one one-hundredths percent (16.61%) to the cost of the adequate education program determined under Section 37-151-7; of the funds generated by the percentage set forth in this section for the support of the adequate education program, one and one hundred seventy-eight one-thousandths percent (1.178%) of the funds shall be appropriated to be used by the State Department of Education for the purchase of textbooks to be loaned under Sections 37-43-1 through 37-43-59 to approved nonpublic schools, as described in Section 37-43-1. The funds to be distributed to each nonpublic school shall be in the proportion that the average daily attendance of each nonpublic school bears to the total average daily attendance of all nonpublic schools;

(ii) Seven and ninety-seven one-hundredths percent (7.97%) to assist the funding of transportation operations and maintenance pursuant to Section 37-19-23; and

(iii) Nine and sixty-one one-hundredths percent (9.61%) for classroom supplies, instructional materials and equipment, including computers and computer software, to be distributed to all school districts in the proportion that the average daily attendance of each school district bears to the average daily attendance of all school districts within the state. Classroom supply funds shall not be expended for administrative purposes. Local school districts shall allocate classroom supply funds equally among all classroom teachers in the school district. For purposes of this subparagraph, "teacher" means any employee of the school board of a school district who is required by law to obtain a teacher's license from the State Department of Education and who is assigned to an instructional area of work as defined by the department, but shall not include a federally funded teacher. Two (2) or more teachers may agree to pool their classroom supply funds for the benefit of a school within the district. It is the intent of the Legislature that all classroom teachers shall be involved in the development of a spending plan that addresses individual classroom needs and supports the overall goals of the school regarding supplies, instructional materials, equipment, computers or computer software under the provisions of this subparagraph, including the type, quantity and quality of such supplies, materials and equipment. This plan shall be submitted in writing to the school principal for approval. Classroom supply funds allocated under this subparagraph shall supplement, not replace, other local and state funds available for the same purposes. School districts need not fully expend the funds received under this subparagraph in the year in which they are received, but such funds may be carried forward for expenditure in any succeeding school year. Any individual teacher or group of teachers with an approved spending plan that has not been fully funded need not expend the funds allocated under this subparagraph in the year in which such funds are received. Such funds may be carried forward for expenditure in any subsequent school year in which the plan is fully funded. However, beginning July 1, 2006, any funds allocated

under this subparagraph which are not reserved in an approved spending plan but remain unspent on March 31 of the fiscal year in which the funds were allotted must be utilized by the school where the teacher is employed for instructional supply and equipment purposes. The State Board of Education shall develop and promulgate rules and regulations for the administration of this subparagraph consistent with the above criteria, with particular emphasis on allowing the individual teachers to expend funds as they deem appropriate. Effective with the 2012-2013 school year, the local school board may authorize each school to issue procurement cards provided by the Department of Finance and Administration under the provisions of Section 31-7-9(1)(c) for the use of teachers and necessary support personnel in making instructional supply fund expenditures under this section, consistent with the regulations of the Mississippi Department of Finance and Administration pursuant to Section 31-7-9. Such procurement cards shall be issued at the beginning of the school year and shall be issued in equal amounts per teacher determined by the total number of qualifying personnel and the current state appropriation for classroom supplies with the Education Enhancement Fund. Such cards will expire on a pre-determined date at the end of each school year. All unexpended amounts will be carried forward, combined with the following year's allocation of Education Enhancement Fund instructional supplies funds and reallocated for the following year;

(b) Twenty-two and nine one-hundredths percent (22.09%) to the Board of Trustees of State Institutions of Higher Learning for the purpose of supporting institutions of higher learning; and

(c) Fourteen and forty-one one-hundredths percent (14.41%) to the State Board for Community and Junior Colleges for the purpose of providing support to community and junior colleges.

(4) The amount remaining in the Education Enhancement Fund after funds are distributed as provided in subsections (2) and (3) of this section shall be disbursed as follows:

(a) Twenty-five Million Dollars (\$25,000,000.00) shall be deposited into the Working Cash-Stabilization Reserve Fund created pursuant to Section 27-103-203(1), until the balance in such fund reaches the maximum balance of seven and one-half percent (7-½%) of the General Fund appropriations in the appropriate fiscal year. After the maximum balance in the Working Cash-Stabilization Reserve Fund is reached, such money shall remain in the Education Enhancement Fund to be appropriated in the manner provided for in paragraph (b) of this subsection.

(b) The remainder shall be appropriated for other educational needs.

(5) None of the funds appropriated pursuant to subsection (3)(a) of this section shall be used to reduce the state's General Fund appropriation for the categories listed in an amount below the following amounts:

(a) For subsection (3)(a)(ii) of this section, Thirty-six Million Seven Hundred Thousand Dollars (\$36,700,000.00);

(b) For the aggregate of minimum program allotments in the 1997 fiscal year, formerly provided for in Chapter 19, Title 37, Mississippi Code of 1972,



as amended, excluding those funds for transportation as provided for in subsection (5)(a) in this section.

**SOURCES:** Laws, 1992, ch. 419, § 9; Laws, 1993, ch. 612, § 1; Laws, 1993, ch. 509, § 1; Laws, 1995, ch. 450, § 1; Laws, 1997, ch. 557, § 1; Laws, 1997, ch. 612, § 25; Laws, 2000, ch. 617, § 3; Laws, 2001, ch. 518, § 1; Laws, 2002, ch. 551, § 7; Laws, 2003, ch. 411, § 1; Laws, 2004, ch. 595, § 24; Laws, 2006, ch. 504, § 4; reenacted without change, Laws, 2009, ch. 345, § 29; Laws, 2012, ch. 543, § 3, eff from and after July 1, 2012.

**Editor’s Note** — Former Section 19 of Chapter 504, Laws of 2006, provided for the repeal of this section, effective June 30, 2009. Section 1 of Chapter 345, Laws of 2009, amended Section 19 of Chapter 504, Laws of 2006, to remove the repealer for this section.

Section 37-4-5 provides that the terms “Junior College Commission” and “State Board for Community and Junior Colleges,” wherever they appear in the laws of Mississippi, shall mean the “Mississippi Community College Board.”

**Amendment Notes** — The 2009 amendment reenacted the section without change. The 2012 amendment added the last four sentences in (3)(a)(iii).

ATTORNEY GENERAL OPINIONS

As long as a school board complies with established policies for classroom supplies, instructional materials and equipment, band instructors may purchase band uniforms and accessories from monies received under Section 37-61-33 (3)(a)(iii). Compton, Aug. 12, 2005, A.G. Op. 05-0384.

CHAPTER 63

Educational Television

§ 37-63-3. Members of authority for educational television; terms.

**Editor’s Note** — Section 37-4-5 provides that the terms “Junior College Commission” and “State Board for Community and Junior Colleges,” wherever they appear in the laws of Mississippi, shall mean the “Mississippi Community College Board.”

§ 37-63-9. Acquisition and operation of facilities.

**Cross References** — Contracts by Mississippi Authority for Educational Television with certain educational institutions or nonprofit organizations in regard to construction, purchase, lease or lease-purchase of facilities and equipment and the employment of personnel for providing multichannel interactive video systems in school districts in this state exempt from § 31-7-13 bidding requirements, see § 31-7-13.

CHAPTER 101

Institutions of Higher Learning; General Provisions

In General .....	37-101-1
Construction of Housing and Dormitory Facilities by Private Financing .....	37-101-41
Faculty and Other Employees .....	37-101-181

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## IN GENERAL

## SEC.

37-101-15.	General powers and duties of board.
37-101-28.	Repealed.

## § 37-101-1. Management of state institutions of higher learning.

**Cross References** — Education Achievement Council to work collaboratively with the Board of Trustees of State Institutions of Higher Learning to achieve state's goal of increasing educational attainment and skill levels to national average, see § 37-163-1.

## JUDICIAL DECISIONS

### 4. Immunity.

Former state university student's 42 U.S.C.S. §§ 1981, 1983 race discrimination claims against the university, a state board of trustees, and several professors were barred under the U.S. Const. Amend. XI doctrine of sovereign immunity; both the university and the board were arms of the State of Mississippi where the board was created pursuant to Miss. Const. Art. 8, § 213A, the Mississippi Legislature

granted further authority to the board via Miss. Code Ann. § 37-101-1, and the university was a public university created by statute and placed under the auspices of the board via Miss. Code Ann. §§ 37-125-1 et seq. and 37-101-1. *Washington v. Jackson State Univ.*, 532 F. Supp. 2d 804 (S.D. Miss. Mar. 15, 2006), appeal dismissed by 244 Fed. Appx. 589, 2007 U.S. App. LEXIS 18811 (5th Cir. Miss. 2007).

## § 37-101-3. Appointment and terms of office of members of Board of Trustees of State Institutions of Higher Learning; attendance at meetings.

**Editor's Note** — Section 37-4-5 provides that the terms "Junior College Commission" and "State Board for Community and Junior Colleges," wherever they appear in the laws of Mississippi, shall mean the "Mississippi Community College Board."

## § 37-101-7. Organization of board; Commissioner of Higher Education; employment of personnel.

**Editor's Note** — Laws of 2011, ch. 511, § 1, provides:

"SECTION 1. (1) The State Superintendent of Public Education, the Commissioner of Higher Education and the Executive Director of the State Board for Community and Junior Colleges, acting jointly, shall develop a comprehensive report and recommendations to the 2012 Legislature on the implementation and operations of 'Early College High Schools.' The report shall be submitted no later than January 2, 2012, and shall provide, at a minimum, the following:

- "(a) A clear definition of what constitutes an Early College High School and how it enhances education and job-related opportunities;
- "(b) The mission and intent of such schools;
- "(c) The established criteria for admission;

“(d) An outline of the comprehensive costs of establishing and operating such a school, including transportation, and recommendations on how the state and local school districts should pay those costs;

“(e) A requirement to provide reports on the status and level of success of operating Early College High Schools in other states across the country;

“(f) Implications for student participation in sports programs and other extracurricular activities when attending an Early College High School;

“(g) An identification of and recommendations on any state laws and policies that may need amending to provide authority for the implementation and operation of such schools;

“(h) Recommendations and costs for state and local funding of transportation services for other forms of dual enrollment programs operated across the state; and

“(i) Any other information as determined to be necessary to benefit the scope and detail of the report.

“(2) The State Superintendent of Public Education, the Commissioner of Higher Education and the Executive Director of the State Board for Community and Junior Colleges, acting jointly, shall include specific recommendations on the establishment of an Early College High School Pilot Program in Mississippi in the report submitted to the 2012 Legislature.”

### § 37-101-15. General powers and duties of board.

(a) The Board of Trustees of State Institutions of Higher Learning shall succeed to and continue to exercise control of all records, books, papers, equipment, and supplies, and all lands, buildings, and other real and personal property belonging to or assigned to the use and benefit of the board of trustees formerly supervising and controlling the institutions of higher learning named in Section 37-101-1. The board shall have and exercise control of the use, distribution and disbursement of all funds, appropriations and taxes, now and hereafter in possession, levied and collected, received, or appropriated for the use, benefit, support, and maintenance or capital outlay expenditures of the institutions of higher learning, including the authorization of employees to sign vouchers for the disbursement of funds for the various institutions, except where otherwise specifically provided by law.

(b) The board shall have general supervision of the affairs of all the institutions of higher learning, including the departments and the schools thereof. The board shall have the power in its discretion to determine who shall be privileged to enter, to remain in, or to graduate therefrom. The board shall have general supervision of the conduct of libraries and laboratories, the care of dormitories, buildings, and grounds; the business methods and arrangement of accounts and records; the organization of the administrative plan of each institution; and all other matters incident to the proper functioning of the institutions. The board shall have the authority to establish minimum standards of achievement as a prerequisite for entrance into any of the institutions under its jurisdiction, which standards need not be uniform between the various institutions and which may be based upon such criteria as the board may establish.

(c) The board shall exercise all the powers and prerogatives conferred upon it under the laws establishing and providing for the operation of the several institutions herein specified. The board shall adopt such bylaws and



regulations from time to time as it deems expedient for the proper supervision and control of the several institutions of higher learning, insofar as such bylaws and regulations are not repugnant to the Constitution and laws, and not inconsistent with the object for which these institutions were established. The board shall have power and authority to prescribe rules and regulations for policing the campuses and all buildings of the respective institutions, to authorize the arrest of all persons violating on any campus any criminal law of the state, and to have such law violators turned over to the civil authorities.

(d) For all institutions specified herein, the board shall provide a uniform system of recording and of accounting approved by the State Department of Audit. The board shall annually prepare, or cause to be prepared, a budget for each institution of higher learning for the succeeding year which must be prepared and in readiness for at least thirty (30) days before the convening of the regular session of the Legislature. All relationships and negotiations between the State Legislature and its various committees and the institutions named herein shall be carried on through the board of trustees. No official, employee or agent representing any of the separate institutions shall appear before the Legislature or any committee thereof except upon the written order of the board or upon the request of the Legislature or a committee thereof.

(e) For all institutions specified herein, the board shall prepare an annual report to the Legislature setting forth the disbursements of all monies appropriated to the respective institutions. Each report to the Legislature shall show how the money appropriated to the several institutions has been expended, beginning and ending with the fiscal years of the institutions, showing the name of each teacher, officer, and employee, and the salary paid each, and an itemized statement of each and every item of receipts and expenditures. Each report must be balanced, and must begin with the former balance. If any property belonging to the state or the institution is used for profit, the reports shall show the expense incurred in managing the property and the amount received therefrom. The reports shall also show a summary of the gross receipts and gross disbursements for each year and shall show the money on hand at the beginning of the fiscal period of the institution next preceding each session of the Legislature and the necessary amount of expense to be incurred from said date to January 1 following. The board shall keep the annual expenditures of each institution herein mentioned within the income derived from legislative appropriations and other sources, but in case of emergency arising from acts of providence, epidemics, fire or storm with the written approval of the Governor and by written consent of a majority of the senators and of the representatives it may exceed the income. The board shall require a surety bond in a surety company authorized to do business in this state, of every employee who is the custodian of funds belonging to one or more of the institutions mentioned herein, which bond shall be in a sum to be fixed by the board in an amount that will properly safeguard the said funds, the premium for which shall be paid out of the funds appropriated for said institutions.

(f) The board shall have the power and authority to elect the heads of the various institutions of higher learning and to contract with all deans, profes-

sors, and other members of the teaching staff, and all administrative employees of said institutions for a term of not exceeding four (4) years. The board shall have the power and authority to terminate any such contract at any time for malfeasance, inefficiency, or contumacious conduct, but never for political reasons. It shall be the policy of the board to permit the executive head of each institution to nominate for election by the board all subordinate employees of the institution over which he presides. It shall be the policy of the board to elect all officials for a definite tenure of service and to reelect during the period of satisfactory service. The board shall have the power to make any adjustments it thinks necessary between the various departments and schools of any institution or between the different institutions.

(g) The board shall keep complete minutes and records of all proceedings which shall be open for inspection by any citizen of the state.

(h) The board shall have the power to contract, on a shared-savings, lease or lease-purchase basis, for energy efficiency services and/or equipment as prescribed in Section 31-7-14, not to exceed ten (10) years.

(i) The Board of Trustees of State Institutions of Higher Learning, for and on behalf of Jackson State University, is hereby authorized to convey by donation or otherwise easements across portions of certain real estate located in the City of Jackson, Hinds County, Mississippi, for right-of-way required for the Metro Parkway Project.

(j) In connection with any international contract between the board or one (1) of the state's institutions of higher learning and any party outside of the United States, the board or institution that is the party to the international contract is hereby authorized and empowered to include in the contract a provision for the resolution by arbitration of any controversy between the parties to the contract relating to such contract or the failure or refusal to perform any part of the contract. Such provision shall be valid, enforceable and irrevocable without regard to the justiciable character of the controversy. Provided, however, that in the event either party to such contract initiates litigation against the other with respect to the contract, the arbitration provision shall be deemed waived unless asserted as a defense on or before the responding party is required to answer such litigation.

(k) The Board of Trustees of State Institutions of Higher Learning ("board"), on behalf of any institution under its jurisdiction, shall purchase and maintain business property insurance and business personal property insurance on all university-owned buildings and/or contents as required by federal law and regulations of the Federal Emergency Management Agency (FEMA) as is necessary for receiving public assistance or reimbursement for repair, reconstruction, replacement or other damage to those buildings and/or contents caused by the Hurricane Katrina Disaster of 2005 or subsequent disasters. The board is authorized to expend funds from any available source for the purpose of obtaining and maintaining that property insurance. The board is authorized to enter into agreements with the Department of Finance and Administration, local school districts, community/junior college districts, community hospitals and/or other state agencies to pool their liabilities to



participate in a group business property and/or business personal property insurance program, subject to uniform rules and regulations as may be adopted by the Department of Finance and Administration.

(l) The Board of Trustees of State Institutions of Higher Learning, or its designee, may approve the payment or reimbursement of reasonable travel expenses incurred by candidates for open positions at the board's executive office or at any of the state institutions of higher learning, when the job candidate has incurred expenses in traveling to a job interview at the request of the board, the Commissioner of Higher Education or a state institution of higher learning administrator.

**SOURCES:** Codes, 1942, § 6724; Laws, 1932, ch. 127; Laws, 1944, ch. 262, §§ 7-13 (a-g, *supra*); Laws, 1960, ch. 291; Laws, 1962, ch. 367, § 3; Laws, 1970, ch. 388, § 1; Laws, 1985, ch. 493, § 5; Laws, 1987, ch. 436; Laws, 1998, ch. 578, § 2; Laws, 2004, ch. 313, § 1; Laws, 2005, 5th Ex Sess, ch. 24, § 6; Laws, 2011, ch. 373, § 1, *eff* from and after passage (approved Mar. 11, 2011.)

**Editor's Note** — Laws of 2011, ch. 511, § 2, provides:

"SECTION 2. (1) The State Board of Education, in conjunction with the Board of Trustees of State Institutions of Higher Learning and the State Board for Community and Junior Colleges, shall study and develop a comprehensive report and recommendations to the 2012 Legislature, by January 2, 2012, on the implementation, expansion and costs associated with the establishment of an Adult High School Diploma. The Chairmen of the House and Senate Education Committees, or their respective designees, and a representative appointed by the Governor, shall serve on the study panel for the development of an Adult High School Diploma.

"(2) The gubernatorial appointment to the study panel shall be made within thirty (30) days after the effective date of this act [April 26, 2011].

"(3) Legislative members of the study panel shall serve without compensation for their services, but may be reimbursed for necessary expense in attending to the actual business of the study panel from any available funds, as provided by law. Legislative members shall be reimbursed from the contingent expense fund of their respective house, but only with the specific approval of the Rules Committee of the respective house; however, no expense for attending meetings of the study panel may be paid while the Legislature is in session."

Section 37-4-5 provides that the terms "Junior College Commission" and "State Board for Community and Junior Colleges," wherever they appear in the laws of Mississippi, shall mean the "Mississippi Community College Board."

**Amendment Notes** — The 2011 amendment added (l).

**Cross References** — Board of trustees of state institutions of higher learning to create IHL accountability and transparency website; website to include, among other things, access to financial reports and audits, budgets, etc., see § 27-104-155.

Board to create Institute of High Energy Physics and Institute for Mathematics and Computing Sciences, see § 57-67-13.

## JUDICIAL DECISIONS

### 2. Employment issues.

After learning of the former professor's affair with a student at a university where he previously taught, the decision of the former president of the university and the former vice-president of academic affairs

to recommend the professor for only a one-year position necessarily involved an act of choice or judgment, as by nature the president's and vice-president's administrative positions at the university required them to make those types of

choices and judgments regarding the faculty, and Miss. Code Ann. § 37-101-15(f) provided that the executive head of the university nominate for election all subordinate employees of the university; nothing in the statute limited the discretion of the president and thus the action by the president and vice-president recommending the professor for one year's employ-

ment instead of tenure-track, after learning of the affair with the student, was a discretionary act immune from suit under Miss. Code Ann. § 11-46-9(1)(d). *Suddith v. Univ. of S. Miss.*, 977 So. 2d 1158 (Miss. Ct. App. 2007), writ of certiorari denied by 977 So. 2d 1144, 2008 Miss. LEXIS 150 (Miss. 2008).

## § 37-101-28. Repealed.

Repealed by Laws, 2011, ch. 511, § 4, effective from and after passage (approved April 26, 2011).

§ 37-101-28. [Laws, 2003, ch. 330, § 1, eff from July 1, 2003.]

**Editor's Note** — Former § 37-101-28 provided for articulation agreements on dual credit courses taken by high school students. For present similar provisions, see § 37-15-38.

## CONSTRUCTION OF HOUSING AND DORMITORY FACILITIES BY PRIVATE FINANCING

### SEC.

- 37-101-41. Authority to lease land at certain institutions for construction, renovation, furnishing, maintaining and equipping of auxiliary facilities by private financing; lease terms; compliance with certain building code standards; maximum percentage of land to be leased; authority to enter into agreements in connection with operations of auxiliary facilities.
- 37-101-43. Employment of architect; preparation of plans and specifications for facility; awarding of lease contract; exemptions.
- 37-101-44. Authorization to contract with single entity for privately financed design and construction or renovation and maintaining, furnishing and equipping of facilities; administration of design-build delivery system.

## § 37-101-41. Authority to lease land at certain institutions for construction, renovation, furnishing, maintaining and equipping of auxiliary facilities by private financing; lease terms; compliance with certain building code standards; maximum percentage of land to be leased; authority to enter into agreements in connection with operations of auxiliary facilities.

(1)(a) Except as otherwise provided in paragraph (b) of this section, and subject to the provisions of Section 37-101-42, the Board of Trustees of State Institutions of Higher Learning (the "board") is authorized and empowered to lease to private individuals or corporations for a term not exceeding thirty-five (35) years any land or land with existing auxiliary facilities at any of the following state-supported institutions: Mississippi State University of Agriculture and Applied Science, Jackson State University, Mississippi

Valley State University, University of Mississippi, Alcorn State University, University of Southern Mississippi, Mississippi University for Women and Delta State University, for the purpose of erecting or renovating, furnishing, maintaining and equipping auxiliary facilities thereon for active faculty, staff and/or students. The auxiliary facilities shall be constructed or renovated, and may be furnished, maintained and equipped thereon by private financing, and may be leased back to the board for use by the concerned state-supported institution of higher learning. The lease shall contain a provision permitting the board to purchase the building located thereon, including any furnishings and equipment therein, for the sum of One Dollar (\$1.00) after payment by the board of all sums of money due under said lease.

(b) The Board of Trustees of State Institutions of Higher Learning may grant authority to universities to lease to private individuals or corporations for a period not exceeding thirty-five (35) years, any land or land with existing auxiliary facilities at the university, for the purpose of erecting or renovating, furnishing, maintaining and equipping auxiliary facilities thereon for active faculty, staff and/or students. The auxiliary facilities shall be constructed or renovated, and may be furnished, maintained and equipped thereon by private financing, and may be leased back to the board for use by the university. The lease shall contain a provision permitting the board to purchase the auxiliary facilities located thereon, including any furnishings and equipment therein, for the sum of One Dollar (\$1.00) after payment by the board of all sums of money due under the lease.

(2) Upon there being an agreement reached between the Board of Trustees of State Institutions of Higher Learning and a university upon whose land the auxiliary facility will be constructed or renovated and a private individual (s) or corporation (s) to enter into such lease agreement as described in subsection (1), it shall be stipulated in the agreement that all newly constructed or renovated auxiliary facilities shall be in compliance with the minimum building code standards employed by the state as required under Section 31-11-33.

(3) The board, in conjunction with the university, shall have sole discretion to decide the placement of new auxiliary facilities upon the university's campus. However, the scope of any such construction or renovation by private entities shall be limited to two (2) leases entered into pursuant to this Section 37-101-41 per year for each university, and shall not exceed in the aggregate twenty-five percent (25%) of the university's total main campus or satellite campus property under the original lease period. In addition, the scope of any such renovation by private entities shall be limited to one (1) project per fiscal year for each university.

(4) No contractual lease agreement for the construction or renovation, furnishing, maintaining and equipping of privately financed auxiliary facilities shall be entered into by a university without prior approval of the Board of Trustees of State Institutions of Higher Learning. An auxiliary facility is a facility that is described by the current Postsecondary Education Facilities Inventory and Classification Manual (FICM) as within categories 500/600/700/800/900.



Before entering into contractual lease agreements for the construction or renovation, furnishing, maintaining and equipping of privately financed auxiliary facilities, the Board of Trustees of State Institutions of Higher Learning shall establish rules and procedures to ensure adequate public advertisement of any requirement for the construction or renovation, furnishing, maintaining and equipping of privately financed auxiliary facilities at a university in order to promote full and open competition and which set forth the requirements for evaluation of offers and award of the contract lease agreement to the private entity.

(5) In addition to the above stated authority, the university, with the permission of the board, is authorized to enter into such marketing, support, management, operating, cooperating or other similar agreements as the university and board may deem advisable or prudent in connection with the ongoing operations of such auxiliary facilities for a period not to exceed the term of the lease relating to such auxiliary facilities.

**SOURCES:** Codes, 1942, § 6724.5; Laws, 1966, ch. 671, § 1; Laws, 1968, ch. 413, § 1; Laws, 1977, ch. 347; Laws, 2006, ch. 551, § 1; Laws, 2007, ch. 424, § 1; Laws, 2007, ch. 494, § 6; Laws, 2009, ch. 565, § 1, eff from and after passage (approved May 13, 2009.)

**Editor's Note** — This section has been set out to correct an error in the 2009 Supplement in (1)(a).

**Amendment Notes** — The 2009 amendment rewrote the section to include with the authority for construction or renovation of auxiliary facilities on certain institutions the authority to furnish, maintain and equip those facilities.

**Cross References** — Exemption from taxation of leases, lease contracts, etc. of or with respect to property constituting all or part of auxiliary facility, and related real property, constructed or renovated pursuant to this section, see § 27-31-1.

### **§ 37-101-43. Employment of architect; preparation of plans and specifications for facility; awarding of lease contract; exemptions.**

(a) Except as otherwise provided in Section 37-101-44, and subject to the provisions of Section 37-101-42, before entering into or awarding any such lease contract under the provisions of Section 37-101-41, the Board of Trustees of State Institutions of Higher Learning shall cause the interested state-supported institution upon which a facility is proposed to be constructed or renovated to select and submit three (3) architects to the board. Thereupon, the board shall approve and employ an architect, who shall be paid by the interested institution from any funds available to the interested institution. The architect, under the direction of the interested institution, shall prepare complete plans and specifications for the facility or facilities desired to be constructed or renovated on the leased property.

Upon completion of the plans and specifications and the approval thereof by the board, and before entering into any lease contract, the board shall cause to be published once a week for at least three (3) consecutive weeks and not less than twenty-one (21) days in at least one (1) newspaper having a general



circulation in the county in which the interested institution is located and in one (1) newspaper with a general statewide circulation, a notice inviting bids or proposals for the leasing, construction or renovation, including the furnishing, maintaining and equipping, if applicable, and leasing back, if applicable, of the land and constructed or renovated facility, including any applicable furnishings or equipment, of the facility to be constructed or renovated in accordance with the plans and specifications. The notice shall distinctly state the thing to be done, and invite sealed proposals, to be filed with the board, to do the thing to be done. The notice shall contain the following specific provisions, together with such others as the board in its discretion deems appropriate, to wit: bids shall be accompanied by a bid security evidenced by a certified or cashier's check or bid-bond payable to the board in a sum of not less than five percent (5%) of the gross construction cost of the facility to be constructed as estimated by the board and the bids shall contain proof satisfactory to the board of interim and permanent financing. The board shall state in the notice when construction shall commence. The bid shall contain the proposed contractor's certificate of responsibility number and bidder's license. In all cases, before the notice shall be published, the plans and specifications shall be filed with the board and also in the office of the president of the interested institution, there to remain.

The board shall award the lease contract to the lowest and best bidder, who will comply with the terms imposed by the contract documents. At the time of the awarding of the lease contract the successful bidder shall enter into bond with sufficient sureties, to be approved by the board, in such penalty as may be fixed by the board, but in no case to be less than the estimated gross construction or renovation cost of the facility to be constructed or renovated as estimated by the board, conditioned for the prompt, proper and efficient performance of the contract. The bond shall be made by an authorized corporate surety bonding company. The bid security herein provided for shall be forfeited if the successful bidder fails to enter into lease contract and commence construction or renovation within the time limitation set forth in the notice. At such time, and simultaneously with the signing of the contract, the successful bidder shall deposit a sum of money, in cash or certified or cashier's check, not less than the bid security previously deposited as bid security to reimburse the interested institution for all sums expended by it for architectural services and other expenditures of the board and interested institution connected with the bidden lease contract, of which such other anticipated expenditures notice is to be given to bidder in the notice. The bid security posted by an unsuccessful bidder shall be refunded to him.

(b) Under the authority granted under Section 37-101-44, the requirements of paragraph (a) of this section shall not apply to the Board of Trustees of State Institutions of Higher Learning's power to grant to universities the authority to contract with a single entity for privately financed design and construction or renovation, and if applicable, the furnishing, maintaining and equipping of facilities on university campuses, and if applicable, the furnishing, maintenance and equipping of facilities on university campuses.

**SOURCES:** Codes, 1942, § 6724.5-01; Laws, 1968, ch. 413, § 2; Laws, 2007, ch. 494, § 5; Laws, 2009, ch. 565, § 2, eff from and after passage (approved May 13, 2009.)

**Amendment Notes** — The 2009 amendment, in the first paragraph of (a), inserted “or renovated” in the first and last sentences, and inserted “or facilities” in the last sentence, in the second paragraph, rewrote the first sentence, and in the last paragraph, inserted “or renovation” and “or renovated” each time they appear; and rewrote (b).

**§ 37-101-44. Authorization to contract with single entity for privately financed design and construction or renovation and maintaining, furnishing and equipping of facilities; administration of design-build delivery system.**

(1) In lieu of exercising the authority set forth in Section 37-101-43 and before entering into or awarding any lease under Section 37-101-41, the Board of Trustees of State Institutions of Higher Learning, subject to the provisions of Section 37-101-42, may award contracts to a single entity for privately financed design and construction or renovation of facilities on university campuses, as well as for maintaining, furnishing and equipping of such facilities, if the entities receiving the contract or contracts and those entities to which work or services are subcontracted are duly licensed and qualified in the state to perform the contract or contracts. State General Fund appropriations or bonds backed by the state may not be used to finance the construction or maintenance of any such facility.

(2) The design-build delivery system described under subsection (1) of this section shall be administered pursuant to Section 31-7-13.1 and may be authorized only when the Board of Trustees of State Institutions of Higher Learning makes a determination, entered on its minutes, with specific findings for the project demonstrating how it is in the best interest of the public to enter into a design-build contract.

**SOURCES:** Laws, 2007, ch. 494, § 4; Laws, 2009, ch. 565, § 3, eff from and after passage (approved May 13, 2009.)

**Amendment Notes** — The 2009 amendment, in the first sentence of (1), inserted “or renovation” and “as well as for maintaining, furnishing and equipping of such facilities.”

**FACULTY AND OTHER EMPLOYEES**

Sec.

37-101-187 through 37-101-193. Repealed

**§§ 37-101-187 through 37-101-193. [Repealed].**

Repealed by Laws of 2009, ch. 404, § 1, effective July 1, 2009.

§ 37-101-187. [Codes, 1942, § 6282-41; Laws, 1956, ch. 265, § 1.]

§ 37-101-189. [Codes, 1942, § 6282-42; Laws, 1956, ch. 265, § 2.]

§ 37-101-191. [Codes, 1942, § 6282-43; Laws, 1956, ch. 265, § 3.]

§ 37-101-193. [Codes, 1942, § 6282-44; Laws, 1956, ch. 265, § 4.]

**Editor's Note** — Former § 37-101-187 required instructors, professors or other teachers employed by institutions of higher learning or other educational institutions supported wholly or in part by public funds to file affidavits as to membership in certain organizations as a condition precedent to employment.

Former § 37-101-189 provided the form of the affidavit.

Former § 37-101-191 provided that contracts with instructors, professors or other teachers who had not filed affidavits were void.

Former § 37-101-193 provided penalties for filing a false affidavit.

## COMMISSION ON COLLEGE ACCREDITATION

SEC.

37-101-241. Commission on college accreditation.

### § 37-101-241. Commission on college accreditation.

(1) There is hereby created the Commission on College Accreditation. Said commission shall be composed of the Executive Director of the State Board for Community and Junior Colleges, the Commissioner of Higher Education, or their designees, and three (3) additional members, one (1) of whom shall be selected by the foregoing two (2) members and who shall represent the private colleges within the state, and two (2) of whom shall be selected by the Mississippi Association of Colleges. The latter three (3) members shall each serve for a term of three (3) years.

(2) The commission shall meet and organize by electing from among its membership a chairman, a vice chairman and a secretary. The commission shall keep full and complete minutes and records of all its proceedings and actions.

(3) The commission shall have the power and authority, and it shall be its duty, to prepare an approved list of community, junior and senior colleges and universities or other entities which offer one or more postsecondary academic degrees and are domiciled, incorporated or otherwise located in the State of Mississippi. Postsecondary academic degrees include, but are not limited to, associate, bachelor, masters and doctorate degrees. The commission shall adopt standards which are in keeping with the best educational practices in accreditation and receive reports from the institutions seeking to be placed on the approved list.

(4) The above-described community, junior and senior colleges and universities or other entities must be approved annually by the commission in order to grant diplomas of graduation, degrees or offer instruction.

(5) The commission shall petition the chancery court of the county in which a person or agent offers one or more postsecondary academic degrees subject to the provisions of this chapter or advertises for the offering of such degrees without having first obtained approval by the commission, for an order enjoining such offering or advertising. The court may grant such injunctive



relief upon a showing that the respondent named in the petition is offering or advertising one or more postsecondary academic degrees without having obtained prior approval of the commission. The Attorney General or the district attorney of the district, including the county in which such action is brought, shall, upon request of the commission, represent the commission in bringing any such action.

(6) The provisions of subsection (5) shall not apply to community, junior and senior colleges and universities with the main campus in Mississippi that were chartered, authorized or approved by the commission prior to July 1, 1988.

(7) The provisions of this section shall not apply to the proprietary schools and colleges subject to regulation under Section 75-60-1 et seq.

(8) The Commission on College Accreditation may promulgate rules and regulations and establish appropriate fees for the implementation of this section.

(9) The commission shall have the power and authority, and it shall be its duty, to execute site visits when deemed necessary by the commission. The members of the commission and commission-appointed evaluation teams shall receive reasonable traveling expenses and other authorized expenses incurred in the performance of commission duties, together with other expenses of the operation of the commission. The members of the Commission on College Accreditation shall serve without salary compensation but shall receive a per diem and mileage as authorized by law including time of going to and returning from site visits of said commission, together with actual travel and hotel expenses incident to the site visits of the commission, and in the discharge of duties prescribed by the commission.

**SOURCES:** Codes, 1942, § 6791.5; Laws, 1950, ch. 368, §§ 1-4; Laws, 1964, ch. 414; Laws, 1988, ch. 324, § 4; Laws, 2006, ch. 483, § 1; Laws, 2009, ch. 409, § 1; Laws, 2012, ch. 311, § 1, eff from and after July 1, 2012.

**Editor's Note** — Section 37-4-5 provides that the terms “Junior College Commission” and “State Board for Community and Junior Colleges,” wherever they appear in the laws of Mississippi, shall mean the “Mississippi Community College Board.”

**Amendment Notes** — The 2009 amendment in (1), substituted “three (3)” for “two (2)” preceding “additional members” and “two (2)” for “one (1)” following “colleges within the state, and” in the first sentence, and substituted “three (3)” for “two (2)” following “The latter” in the last sentence; and added (7) and (8).

The 2012 amendment rewrote (6); added (7) and renumbered remaining subsections accordingly.

## SCHOLARSHIPS AND LOANS

SEC.

37-101-285. Definitions applicable to § 37-101-291.

### § 37-101-285. Definitions applicable to § 37-101-291.

For the purposes of Section 37-101-291, the following terms shall have the following meanings unless context shall prescribe otherwise:



(1) “State health institution” or “state health institutions” means all facilities operated within the Department of Mental Health, mental health/intellectual disability facilities under the administration of a regional commission as established under Section 41-19-31, that are certified by the Department of Mental Health, University of Mississippi Hospital, the State Board of Health, health care facilities operated by the Department of Corrections, and any other public health care facility.

(2) “Health care professions” means nurses, nurse-practitioners, speech pathologists, psychologists, occupational therapists, physical therapists, and any other critical need profession determined by the sponsoring state health institution.

**SOURCES:** Laws, 1989, ch. 549, § 1; Laws, 1992, ch. 336, § 21; Laws, 2003, ch. 446, § 1; Laws, 2010, ch. 476, § 15, eff from and after passage (approved Apr. 1, 2010.)

**Amendment Notes** — The 2010 amendment substituted “mental health/intellectual disability facilities” for “mental health/mental retardation facilities” in (1).

## ISSUANCE OF GENERAL OBLIGATION BONDS FOR VARIOUS INSTITUTIONS OF HIGHER LEARNING, THE EDUCATION AND RESEARCH CENTER, AND THE GULF COAST RESEARCH LABORATORY

### § 37-101-331. Report as to renovations and repairs at state community and junior colleges.

**Editor’s Note** — Section 37-4-5 provides that the terms “Junior College Commission” and “State Board for Community and Junior Colleges,” wherever they appear in the laws of Mississippi, shall mean the “Mississippi Community College Board.”

## CHAPTER 102

### Off-campus Instructional Programs

### § 37-102-3. Approval of State Board for Community and Junior Colleges.

**Editor’s Note** — Section 37-4-5 provides that the terms “Junior College Commission” and “State Board for Community and Junior Colleges,” wherever they appear in the laws of Mississippi, shall mean the “Mississippi Community College Board.”

## CHAPTER 103

### Residency and Fees of Students Attending or Applying for Admission to Educational Institutions

**SEC.**  
37-103-25. Tuition and fees for attending state-supported institutions of higher

learning and junior colleges; waiver of out-of-state tuition under certain circumstances.

**§ 37-103-25. Tuition and fees for attending state-supported institutions of higher learning and junior colleges; waiver of out-of-state tuition under certain circumstances.**

(1) The Board of Trustees of State Institutions of Higher Learning and the boards of trustees of the community colleges and junior colleges are authorized to prescribe the amount of tuition and fees to be paid by students attending the several state-supported institutions of higher learning and community colleges and junior colleges of the State of Mississippi.

(2) Except as otherwise provided in this subsection and subsection (3) of this section, the total tuition to be paid by residents of other states shall not be less than the average cost per student from appropriated funds. However, the tuition to be paid by a resident of another state shall be equal to the tuition amount established under subsection (1) of this section if:

(a) The nonresident student was born in the State of Mississippi but subsequently relocated and resided outside the state as a minor under the care of the minor's father or mother, or both;

(b) The nonresident student is a veteran who served in the Armed Forces of the United States;

(c) The nonresident student is domiciled in Mississippi no later than six (6) months after the nonresident student's separation from service, as evidenced by a Report of Separation from Military Service or other military discharge document, for the purpose of enrolling in a state institution of higher learning or a community or junior college;

(d) The nonresident student is an evacuee of an area affected by Hurricane Katrina or Hurricane Rita. This waiver shall be applicable to the 2005-2006 school year only; or

(e) The nonresident student's out-of-state tuition was waived according to subsection (3) of this section.

(3) The Board of Trustees of State Institutions of Higher Learning may, in its discretion, consider and grant requests to approve institution specific policies permitting the waiver of out-of-state tuition when such an official request is made by the president or chancellor of the institution and when such request is determined by the board to be fiscally responsible and in accordance with the educational mission of the requesting institution.

**SOURCES:** Codes, 1942, § 6800-12; Laws, 1962, ch. 355, § 2; Laws, 2003, ch. 364, § 1; Laws, 2005, 5th Ex Sess, ch. 13, § 1; Laws, 2012, ch. 301, § 1, eff from and after July 1, 2012.

**Amendment Notes** — The 2012 amendment added (2)(e) and (3); and made minor stylistic changes.

## CHAPTER 104

Mississippi Educational Facilities Authority Act for Private,  
Nonprofit Institutions of Higher Learning

## § 37-104-5. Definitions.

**Editor's Note** — Section 37-4-5 provides that the term “Junior College Commission” whenever it appears in the laws of the State of Mississippi means the “State Board for Community and Junior Colleges.”

## CHAPTER 106

## Post-Secondary Education Financial Assistance

§ 37-106-9. Post-secondary education financial assistance  
board; members; director.

**Editor's Note** — Section 37-4-5 provides that the terms “Junior College Commission” and “State Board for Community and Junior Colleges,” wherever they appear in the laws of Mississippi, shall mean the “Mississippi Community College Board.”

## CHAPTER 107

Scholarships for Children of Deceased or Disabled Law  
Enforcement Officers or Firemen

## § 37-107-1. When child eligible for, and nature of, scholarship.

**Cross References** — Death benefit paid to surviving children of law enforcement officers under Officers and Fire Fighters Death Benefits Trust Fund, see § 45-2-1.

## § 37-107-3. Definitions.

**Editor's Note** — Section 27-3-4 provides that the terms “Mississippi State Tax Commission,” “State Tax Commission,” “Tax Commission” and “commission” appearing in the laws of this state in connection with the performance of the duties and functions by the Mississippi State Tax Commission, the State Tax Commission or Tax Commission shall mean the Department of Revenue.”

**Cross References** — “Game warden” defined as “conservation officer,” see § 49-1-12.

## CHAPTER 111

## Fraternities, Sororities and Other Societies

SEC.  
37-111-5. Repealed.

## § 37-111-5. Repealed.

Repealed by Laws, 2011, ch. 375, § 1, effective from and after July 1, 2011.  
§ 37-115-5. [Codes, 1930, § 7311; 1942, § 6794; Laws, 1926, ch. 312.]



**Editor’s Note** — Former § 37-111-5 provided student eligibility requirements for membership in fraternities, sororities or other similar university or college societies.

CHAPTER 113

Mississippi State University of Agriculture and Applied Science

In General ..... 37-113-1

IN GENERAL

- SEC.  
37-113-21. Branch agricultural experimental stations.  
37-113-48. “Old Extension Service Building” designated “Lloyd-Ricks-Watson Building.”

§ 37-113-21. Branch agricultural experimental stations.

(1) Agriculture is the primary industry of Mississippi and it is to the interest of said state agriculture that research in the fields of livestock products, pastures and forage crops, poultry, herd and flock management, horticulture, farm mechanization, soil conservation, forestry, disease and insect and parasite control, the testing of plants and livestock under different conditions, farm enterprises for different sized farms under different soil and climatic conditions and market locations, and other important phases of Mississippi’s agricultural economy, be expanded in the manner provided for in this section.

(2) There is hereby authorized a branch experiment station to be known as the Brown Loam Branch Experiment Station, which is to be located on a part of that tract of land owned by the State of Mississippi and formerly operated as the Oakley Penitentiary and known as the Oakley Youth Development Center, same to be selected in accordance with Laws, 1954, Chapter 159, Section 3, and used as an agricultural experiment station. This property is to be supplied with necessary buildings, equipment, and other facilities; and title to such Oakley Penitentiary Farm, now known as the Oakley Youth Development Center, is to be transferred to the Board of Trustees of State Institutions of Higher Learning for the use of the Mississippi Agricultural and Forestry Experimental Station as the site of, and to be used for said Brown Loam Branch Experiment Station in accordance with Laws, 1954, Chapter 159, Section 3.

There is hereby authorized a branch experiment station to be known as the Coastal Plain Branch Experiment Station to be located on a suitable tract of approximately nine hundred (900) acres to be purchased in the upper coastal plain or short leaf pine area of east central Mississippi and to be supplied with necessary buildings, equipment, and other facilities.

The enlargement of the Holly Springs Branch Experiment Station, hereafter to be known as the North Mississippi Branch Experiment Station, is hereby authorized, by the purchase of approximately five hundred (500) acres



of additional land adjacent to or in the vicinity of either of the two (2) farms now operated by said branch stations, and by the provision of the necessary buildings, equipment, and other facilities, and the sale as, hereinafter provided, of that farm of said branch station which is not adjacent to the additional land to be purchased.

There is hereby authorized the reactivation of the former McNeil Branch Experiment Station to be operated as a part of the South Mississippi Branch Experiment Station at Poplarville, and to be supplied with necessary buildings, equipment, and other facilities.

There is hereby authorized a branch experiment station to be known as the Black Belt Branch Experiment Station to be located on a suitable tract of approximately six hundred forty (640) acres of land to be purchased in Noxubee County, Mississippi, and to be supplied with the necessary buildings, equipment, and other facilities.

There is hereby authorized a branch experiment station to be known as the Northeast Mississippi Branch Experiment Station to be located on a suitable tract of approximately two hundred (200) acres of land to be purchased in Lee County, Mississippi. Said station shall be primarily devoted to the development of the dairy industry and shall be supplied with necessary buildings, equipment, and other facilities.

There is hereby authorized the expansion of the office and laboratory building at the Delta Branch Experiment Station at Stoneville and of the office and laboratory and dwellings for station workers at the Truck Crops Branch Experiment Station at Crystal Springs.

(3) The governing authorities of any municipality, town, or county in the state may, in their discretion, donate land, money or other property to the Board of Trustees of State Institutions of Higher Learning in furtherance of the purposes of this section.

For the purpose of securing funds to carry out this subsection, the governing authorities of such municipality, town, or county are hereby authorized and empowered, in their discretion, to issue bonds or negotiate notes for the purpose of acquiring by purchase, gift, or lease real estate for the purpose herein authorized. Such issuance of bonds or notes shall be issued in an amount not to exceed the limitation now or hereafter imposed by law on counties, municipalities and towns, and shall be issued in all respects including interest rate, maturities and other details as is now or may hereafter be provided by general law regulating the issuance of bond or notes by the governing authorities of such municipality, town, or county.

(4) Any person, firm or corporation may contribute or donate real or other property to the Board of Trustees of State Institutions of Higher Learning in furtherance of the purpose of this section.

(5) The Board of Trustees of State Institutions of Higher Learning is hereby authorized, upon recommendation of the Director of the Agricultural and Forestry Experimental Station at the Mississippi State University of Agriculture and Applied Science, which recommendation is approved by and transmitted to said board by the president of said university, to carry out the

provisions of this section with particular reference to the establishment, reactivation, expansion, and the discontinuance of branch stations as herein provided, to receive and accept title to any land or property or money herein authorized, to buy or sell and dispose of any real or personal property herein authorized, to make available for carrying into effect the provisions of this section all money received from such sale or sales, and to do any and all things necessary to effectuate the purposes of this section. One-half ( $\frac{1}{2}$ ) interest in and to all oil, gas and other minerals shall be retained under any lands sold hereunder.

(6) A gift of One Hundred Thousand Dollars (\$100,000.00), authorized by the general education board of the Rockefeller Foundation for the development of agricultural research, with particular reference to expanding the branch experiment stations and conditioned upon a general program of expansion substantially, as herein provided, is hereby accepted. The Director of the Agricultural and Forestry Experimental Station at the Mississippi State University of Agriculture and Applied Science is authorized and instructed to control and expend such fund in the same manner as other funds appropriated to carry out the provisions of this section.

(7) The experiment station in Clay County, Mississippi, shall not be affected by this section.

**SOURCES:** Codes, 1942, § 6699-01; Laws, 1946, ch. 296, §§ 1-16; Laws, 1954, ch. 159, § 1; Laws, 2010, ch. 554, § 2, eff from and after July 1, 2011.

**Amendment Notes** — The 2010 amendment, effective from and after July 1, 2011, twice substituted “Oakley Youth Development Center” for “Oakley Training School” in the first paragraph in (2) and made minor stylistic changes.

### **§ 37-113-48. “Old Extension Service Building” designated “Lloyd-Ricks-Watson Building.”**

The building located at 255 Tracy Drive in Mississippi State, Mississippi, and also known as the “Old Extension Service Building,” shall be named the “Lloyd-Ricks-Watson Building” after former university employees Edward R. Lloyd and James R. Ricks, and current university employee Vance H. Watson. Such employees have served as the Director of the Experiment Station and the Director of the Extension Service, and are the only three (3) individuals in history who have served in both capacities at Mississippi State University. Mississippi State University shall prepare a distinctive plaque to be placed in a prominent place inside the building, which states the background, accomplishments and service to the state of these university employees.

**SOURCES:** Laws, 2008, ch. 309, § 1, eff from and after passage (approved Mar. 17, 2008.)

## CHAPTER 115

## University of Mississippi

School of Medicine .....	37-115-21
University of Mississippi Medical Center .....	37-115-41

## SCHOOL OF MEDICINE

SEC.	
37-115-25.	University Hospital; University of Mississippi Medical Center and University Hospital authorized to enter into faculty physician and staff recruitment agreements .

**§ 37-115-25. University Hospital; University of Mississippi Medical Center and University Hospital authorized to enter into faculty physician and staff recruitment agreements .**

(1) There shall be built, equipped and operated as a part of the medical school, a teaching hospital of the size of not less than three-hundred-fifty-bed capacity, together with all ancillary buildings and physical facilities needful or proper for the establishment, operation and maintenance of such a hospital as a part of a fully accredited four-year medical school, including, clinical and outpatient services and all types of services deemed to be necessary or desirable as a part of the functioning of such a teaching hospital. Said teaching hospital shall be known as the University Hospital. There shall also be acquired and installed all needed equipment and supplies for the proper operation and maintenance of such medical school and hospital and other facilities for the purposes aforesaid. There shall be employed all needed personnel and services to operate said medical school and hospital and other facilities.

(2) As part of employing appropriate professional staff, the University Medical Center and University Hospital are authorized to enter into recruitment agreements to provide for needed faculty physicians and staff. Said agreements may include, but are not limited to, salary supplements, transfer and moving expenses and payment of medical school loans. Any amount so advanced shall be forgiven over not less than a three-year period of a year-for-year pro rata basis. In the event that the physician should leave University of Mississippi Medical Center employment, said physician shall repay any remaining sum(s) so advanced plus interest as negotiated in the agreement. Said amounts to be repaid over no more than a two-year period.

**SOURCES:** Codes, 1942, § 6708-03; Laws, 1950, ch. 378, § 3; Laws, 2009, ch. 414, § 1, eff from and after July 1, 2009.

**Amendment Notes** — The 2009 amendment added (2).



## § 37-115-27. Location of school and hospital.

**Editor's Note** — Laws of 2010, ch. 526, § 3 provides:

“(1) The Department of Finance and Administration, acting on behalf of the University of Mississippi Medical Center, is authorized to donate and convey to the Jackson Medical Mall Foundation certain real property located on Bailey Avenue in the City of Jackson, Mississippi, being more particularly described as follows:

“EXHIBIT ‘A’

“A certain lot or parcel of land situated in the NW  $\frac{1}{4}$  of the SW  $\frac{1}{4}$  of Section 27, T 6 N, R 1 E, First Judicial District of Hinds County, Mississippi, fronting 80 feet on the east line of Bailey Avenue, and being more particularly described as follows: Being at an iron stake on the east line of Bailey Avenue a distance of 265 feet measured northerly along the east line of Bailey Avenue from its intersection with the north line of Peters Street, as both streets were laid out as of April, 1969, and improved in the City of Jackson, Mississippi, said point of beginning also being the northwest corner of that certain parcel of land conveyed by Ammco Properties, Inc., to George E. Butler of Mississippi, Inc., by deed dated July 16, 1963, and recorded in Deed Book 1432, Page 418, in the office of the Hinds County Chancery Clerk at Jackson, Mississippi, and run thence southerly along the east line of Bailey Avenue for a distance of 80 feet to an iron stake; run thence easterly along a line parallel with the north line of Peters Street, said line being the north line of that certain lot or parcel of land conveyed by George E. Butler of Mississippi, Inc., to William B. Ball, Jr., et al by deed dated October 24, 1967, and recorded in Deed Book 1722, Page 313, in the office of said Chancery Clerk, for a distance of 193 feet to an iron stake; run thence southerly along a line parallel with the east line of Bailey Avenue, said line being the east line of the said property of William B. Ball, et al, for a distance of 185 feet to an iron stake on the north line of Peters Street at the southeast corner of the said Ball property; run thence easterly along the north line of Peters Street, and along the north line of Peters Street extended easterly, for a distance of 514.45 feet to a concrete monument at the intersection of the said north line of Peters Street extended easterly with the southwesterly right-of-way line of the Yazoo Mississippi Valley Railroad, now the Illinois Central Railroad; run thence northwesterly along the said southwestern right-of-way line of the Illinois Central Railroad for a distance of 348.75 feet to the northeast corner of the said property of George E. Butler of Mississippi, Inc.; run thence westerly and parallel with the north line of Peters Street for a distance of 482.74 feet to the point of beginning. “LESS AND EXCEPT that parcel of land located on the west side of the above-described property conveyed to the City of Jackson, Mississippi by virtue of Warranty Deed dated 7/13/79 and recorded in Deed Book 2654, Page 78.

“(2) The State of Mississippi shall retain all mineral rights to the real property donated in subsection (1).”

## § 37-115-31. Operation of hospital.

**Cross References** — Exemption of University of Mississippi Medical Center from statutory restrictions on the purchase and use of wireless communication devices, see § 25-53-191.

### UNIVERSITY OF MISSISSIPPI MEDICAL CENTER

SEC.

37-115-43.

Authority to create Center of Excellence; purpose; programs, services, major research initiatives; Children's Justice Center Fund created.



- 37-115-47. Authorization to dispose of properly preserved food through charitable donation.
- 37-115-49. University of Mississippi Medical Center - ACT Center Fund created; purpose.

**§ 37-115-41. Criminal history record checks and fingerprinting required for new employees providing direct patient care; disciplinary checks with professional licensing agencies; applicants aggrieved by employment decision based on criminal history record check may show mitigating circumstances; immunity for employment decisions made in compliance with this section.**

**Editor's Note** — "Vulnerable Adult Act" was changed to "Vulnerable Persons Act" by Laws of 2010, ch. 357.

**§ 37-115-43. Authority to create Center of Excellence; purpose; programs, services, major research initiatives; Children's Justice Center Fund created.**

(1) The University of Mississippi Medical Center in collaboration with the Mississippi Department of Human Services and the Office of the Attorney General is authorized and empowered to establish a Center of Excellence (Center), to provide care for abused and neglected children at the Blair E. Batson Hospital for Children located in Jackson, Mississippi, where suspected victims of child maltreatment referred by the Department of Human Services or law enforcement will receive comprehensive physical examinations conducted by medical professionals who specialize in child maltreatment. The University of Mississippi Medical Center shall promulgate such policies as may be necessary and desirable to carry out the programs of the Center. The Center shall serve as a resource for the assessment, investigation and prosecution of child maltreatment. The Center shall work in collaboration with the Office of the Attorney General, the Mississippi Department of Human Services and other such state agencies and entities that provide services to children, to ensure that CARE Clinic services are provided in a uniform fashion throughout the state.

(2) The Department of Pediatrics may use the Center for educational and outreach programs, telemedicine consultations, to develop satellite clinics in other locations in the state in cooperation with the local community or private hospital when applicable, and to conduct major research initiatives in child maltreatment.

(3) The Center of Excellence shall provide services to maltreated children and comply with national certification standards as necessary to provide services to the Department of Human Services, the youth courts, state child advocacy centers, district attorney's offices and law enforcement agencies.

(4) There is created in the State Treasury a special fund to be known as the Children's Justice Center Fund. The University of Mississippi Medical

Center shall expend funds pursuant to appropriation therefor by the Legislature for the support and maintenance of the Children’s Justice Center. The University of Mississippi Medical Center is authorized to accept any and all grants, donations or matching funds from private, public or federal sources in order to add to, improve and enlarge the physical facilities of the Center and to expend any such funds for the support and maintenance of the Center. Assessments from Section 99-19-73 designated for the Children’s Justice Center Fund shall be deposited into the fund. Monies remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned from the investment of monies in the fund shall be deposited to the credit of the fund.

**SOURCES:** Laws, 2007, ch. 561, § 1; Laws, 2008, ch. 413, § 1; Laws, 2008, ch. 499, § 1; Laws, 2010, ch. 498, § 1; Laws, 2012, ch. 554, § 5, eff from and after July 1, 2012.

**Joint Legislative Committee Note** — Section 1 of ch. 413, Laws of 2008, effective from and after July 1, 2008 (approved April 2, 2008), amended this section. Section 1 of ch. 499, Laws of 2008, effective upon passage (approved April 21, 2008), also amended this section. The amendments to these sections do not conform and do not meet the Joint Committee’s criteria for integration. Pursuant to Section 1-3-79, which provides that whenever the same section of law is amended by different bills during the same legislative session, the amendment with the latest effective date shall supersede all other amendments to the same section taking effect earlier; therefore, as set out above, this section reflects the language of Section 1 of ch. 423, Laws of 2008.

**Editor’s Note** — Laws of 2007, ch. 561, § 2, as amended by Laws of 2008, ch. 413, § 2, and as amended by Laws of 2008, ch. 499, § 2, provides:

“SECTION 2. This act shall take effect and be in force from and after its passage.”  
Laws of 2012, ch. 554, § 6 provides:

“SECTION 6. During fiscal year 2013, the following agencies shall have the authority to receive, budget and expend the following amounts generated from the assessments enacted in House Bill No. 878, 2012 Regular Session:

“University of Mississippi Medical Center for the	
“Children’s Justice Center .....	\$750,000.00
“Board of Trustees of State Institutions of	
“Higher Learning for the DuBard School	
“for Language Disorders .....	\$300,000.00
“Attorney General’s office for the Children’s Advocacy	
“Centers of Mississippi .....	\$650,000.00
“Attorney General’s office for the Motorcycle	
“Officers Training Program .....	\$50,000.00

“The above listed escalations shall be done in accordance with the rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds.”

**Amendment Notes** — The first 2008 amendment (ch. 413) reenacted and amended the section by adding (5).

The second 2008 amendment (ch. 499) also added (5).

The 2010 amendment made a minor stylistic change in (4); and deleted (5), which was the repealer for the section.

The 2012 amendment, in (4), deleted “hereby” preceding “created” and substituted “Children’s Justice Center Fund” for “Children’s Justice Fund” in the first sentence, deleted the former second sentence, which read: “The State Treasurer shall transfer into said special fund any funds returned to the State Treasury by the MCI WorldCom

Settlement by the Mississippi Children's Justice Center pursuant to agreement with the State Auditor", inserted "Children's Justice" in the present second sentence, and added the last two sentences.

### **§ 37-115-47. Authorization to dispose of properly preserved food through charitable donation.**

(1) The University of Mississippi Medical Center is authorized to dispose of food that has been frozen or properly preserved for human consumption through donation to charitable facilities, charitable organizations and/or individuals providing charitable services as the Medical Center deems appropriate.

(2) The executive director of the charitable facility or organization, receiving such food, or his authorized designee, shall agree to a waiver of liability in favor of the State of Mississippi and the University of Mississippi Medical Center stating that such donations are being provided in the condition used by the State of Mississippi and the University Medical Center, and without warranty of any nature.

**SOURCES:** Laws, 2009, ch. 534, § 1, eff from and after July 1, 2009.

### **§ 37-115-49. University of Mississippi Medical Center - ACT Center Fund created; purpose.**

(1) During fiscal year 2010, the State Fiscal Officer shall transfer the sum of Three Million Dollars (\$3,000,000.00) from the State General Fund to the University of Mississippi Medical Center - ACT Center Fund created in subsection (2) of this section.

(2)(a) There is created in the State Treasury a special fund to be known as the "University of Mississippi Medical Center - ACT Center Fund," which shall consist of monies deposited therein under subsection (1) of this section and monies from any other source designated for deposit into the fund. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned or investment earnings on amounts in the fund shall be deposited to the credit of the special fund.

(b) Monies in the fund may be used by the University of Mississippi Medical Center, upon appropriation by the Legislature, for the purpose of providing funds for the ACT Center for Tobacco Treatment, Education and Research at the University of Mississippi Medical Center.

**SOURCES:** Laws, 2009, ch. 563, § 17, eff from and after passage (approved May 15, 2009.)

**Editor's Note** — Laws of 2009, ch. 563, § 18, provides:

"SECTION 18. This act shall take effect and be in force from and after its passage; however, Section 17 of this act shall not take effect unless House Bill No. 364, 2009 Regular Session, is enacted into law, and Section 17 shall take effect and be in force from and after the effective date of House Bill No. 364, 2009 Regular Session."



House Bill No. 364, 2009 Regular Session, was enacted into law as Chapter 562, effective May 15, 2009.

## CHAPTER 117

### Mississippi University for Women

#### § 37-117-1. Organization.

**Editor's Note** — Laws of 2010, ch. 467, § 1 provides:

“(1) The Department of Finance and Administration, acting on behalf of the Board of Trustees of State Institutions of Higher Learning, is authorized to sell and convey certain real property and any improvements thereon at the Mississippi University for Women, located in the City of Columbus, Lowndes County, Mississippi, known as the “Carrier Lodge,” and more particularly described as follows:

“The South Half (S ½) of Fractional Square 25 of Moore's Survey of the City of Columbus, Mississippi, as shown by the official map or plat of the City of Columbus, Lowndes County, Mississippi.

“That part of Square Number Fifteen (15) of Moore's Survey of and in the City of Columbus, Lowndes County, Mississippi, known and described as follows: Beginning at the northwest corner of said Square No. 15 of Moore's Survey aforesaid; thence running east along the northern boundary line of said Square a distance of 173 feet, more or less, to a line of trees running north and south through said Square; thence running south along said line of trees a distance of 150 feet; thence running west on a line parallel with the north line of said Square a distance of 173 feet; thence running north a distance of 150 feet to the point of beginning; said property being more particularly described as and enclosed by a line run as follows: “Beginning at the southeast corner of the intersection of South Eighth Avenue and South First Street in the City of Columbus, Mississippi (said point of beginning being the intersection of the south line of said South Eighth Avenue with the east line of said South First Street); thence running north 79 degrees 50 minutes east along the south line of South Eighth Avenue a distance of 165.5 feet to an iron pin; thence running south 14 degrees 30 minutes east (at an interior angle of 91 degrees 47 minutes) a distance of 149 feet to an iron pin; thence running south 80 degrees 10 minutes west (at an interior angle of 88 degrees 13 minutes) a distance of 169 feet to an iron pin on the east line of South First Street (west line of said Square No. 15 of Moore's Survey aforesaid); thence running north 13 degrees 20 minutes west (at an interior angle of 90 degrees 30 minutes) along the east line of South First Street (west line of said Square No. 15 of Moore's Survey aforesaid) a distance of 150 feet to the point of beginning (the northwest corner of the tract described having an interior angle of 89 degrees 30 minutes); as per map or plat of survey thereof by C.L. Wood, Civil Engineer, dated July 26, 1949, Columbus, Mississippi; and being the same property conveyed by The Refuge Cotton Oil Company to Kraft Foods Company by deed dated June 30, 1950, recorded in Land Record Number 216, Page 177 in the Chancery Clerk's Office of Lowndes County, Mississippi.

“All of Square No. 24 of Moore's Survey in and according to the plan of the City of Columbus, Mississippi, less and except therefrom, however, 150 feet off the entire North end of said Square No. 24 of Moore's Survey.

“ALSO, the West Half (W ½) of Square No. 15 of Moore's Survey, in and according to the plan of said City of Columbus, Mississippi, less and except therefrom; however, 150 feet off of the entire North end thereof heretofore conveyed by F.J. Jacob to Refuge Cotton Oil Co. by deed dated April 30, 1925 and recorded in Deed Book 125 at Page 182 of the land records of Lowndes County, Mississippi; and less and except therefrom also, the following described lot: Beginning at a point on the

West Boundary line of said Square No. 15 of Moore's Survey, 242 feet South of the Northwest corner of said Square; thence East, 20 feet; thence South, 75 feet; thence West, 20 feet; thence North, along the West boundary line of said Square, 75 feet to the point of beginning, being the same property conveyed by F.M. Jacob to the Refuge Cotton Oil Co. by deeds recorded in Deed Book 145 at Page 302 and Page 441 of the land records of Lowndes County, Mississippi.

"ALSO, that part of the Southeast Quarter (SE  $\frac{1}{4}$ ) of Square No. 15 of Moore's Survey in and according to the plan of said City of Columbus, Mississippi, described as: Beginning at the point of intersection of the East boundary line of said Square No. 15 of Moore's Survey, with the North boundary line of the right of way of the G.M. & O. Railroad, and running thence West parallel with the South boundary line of said Square, 165 feet; thence South, 16 feet; thence East, 93 feet to the North boundary line of the G.M. & O. Railroad property; thence in a Northeasterly direction along the North boundary line of said G.M. & O. Railroad property, to the point of beginning.

"ALSO, a triangular strip in said Square 15 of Moore's Survey in and according to the plan of said City of Columbus, Mississippi described as: Beginning at the point 165 feet West of the Southeast corner of said Square; thence North, 40 feet; thence in a Southeasterly direction, a distance of 93 feet to a point on the South boundary line of said Square, which point is 99 feet East of the point of beginning; thence West along said South boundary line, 99 feet to the point of beginning.

"(2) The real property described in subsection (1) of this section shall not be sold for less than the current fair market value as determined by the averaging of at least two (2) appraisals by qualified appraisers selected by the Department of Finance and Administration.

"(3) The State of Mississippi shall retain all mineral rights to the real property sold under this section.

"(4) Proceeds from the sale of the real property described in subsection (1) of this section shall be deposited into a special fund in the State Treasury and shall be expended only for the benefit of the Mississippi University for Women."

Laws of 2011, ch. 361, § 1, provides:

"SECTION 1. (1) The Department of Finance and Administration, acting on behalf of the Board of Trustees of State Institutions of Higher Learning, is authorized to donate and convey certain, to the City of Columbus, Mississippi, real property and any improvements thereon at the Mississippi University for Women, located in the City of Columbus, Lowndes County, Mississippi, and more particularly described as follows:

**"PARCEL 1**

"Beginning at a point 344 feet North of the Southeast corner of the Northeast Quarter (NE  $\frac{1}{4}$ ) of Section Twenty-one (21), Township Eighteen (18), Range Eighteen (18) West, said point being on the eastern boundary of said section and also on the eastern boundary of South 15th Street in Columbus, Mississippi, thence West 150 feet to the Southeast corner of Block One (1), Sherrod's Subdivision (1904) as shown by plat of record in Plat Book 1, Page 42, of the land records of Lowndes County, Mississippi; thence North 15 degrees West 809 feet or to the Southern right-of-way of the old Forest Railroad; thence Southeasterly along said right-of-way line of said railroad following the curve of said railroad 419 feet to the East boundary line of said Section 21, Township 18, Range 18 West; thence South along the East boundary line of said Section 21, 572 feet to the point of beginning, all lying in the Northeast Quarter (NE  $\frac{1}{4}$ ) of said Section 21, Township 18, Range 18 West, and containing approximately 3.8 acres.

**"PARCEL 4**

"That part of Block One (1), Sherrod's Subdivision, 1904, as shown by plat of record in Plat Book No. 1, Page 42 of the land records of Lowndes County, Mississippi, more particularly described as follows:

"Beginning at the Southeast corner of said Block One (1) of said Subdivision; thence West along the North right-of-way of 10th Avenue South 115 feet to the Southwest



corner of said Block 1 of said Subdivision; thence North along West boundary of said block a distance of 130 feet to the Northwest corner of said block; thence East along the North side of said Block 78.8 feet; thence South 15 degrees East 140 feet to the point of beginning, containing 0.305 acres, more or less; all in Lowndes County, Mississippi.

“Said above described property containing, in the aggregate, 15.721 acres, more or less, and being expressly SUBJECT TO all easements for installation and maintenance of public utilities and drainage, and rights-of-way for public streets and roads heretofore established and now existing upon said property, such utility easement including, but not being limited to, electric transmission line easements in favor of the United States of America, the City of Columbus, Mississippi, and Mississippi Power Company, granted by instruments recorded in Book 166 at Page 320, Book 342 at Pages 421-426, and Book 358 at Pages 506-508 of the land records of Lowndes County, Mississippi, and sewer line easement conveyed to the City of Columbus, Mississippi, by deed recorded in Book 246 at Page 22 of the land records of said county and state.

“(2) If at any time after the donation of the real property described in subsection (1) of this section the City of Columbus, Lowndes County, Mississippi, ceases to use the real property for the purposes intended at the time of donation, the city shall forfeit its rights, title and interest in the real property, and all of the rights, title and interest in the real property shall revert back to the State of Mississippi, to be held for the use and benefit of the Board of the Mississippi University for Women, under the direction and control of the Board of Trustees of State Institutions of Higher Learning.

“(3) The State of Mississippi shall retain all mineral rights to the real property sold under this section.”

## CHAPTER 119

### University of Southern Mississippi

SEC.

37-119-9. Authorization to borrow funds to establish certified registered nurse anesthetist education and training program.

37-119-11. DuBard School for Language Disorders Fund created.

### § 37-119-1. Organization.

**Editor’s Note** — Laws of 2011, ch. 378, § 1, provides:

“SECTION 1. (1) The Department of Finance and Administration, acting on behalf of the Board of Trustees of State Institutions of Higher Learning, is authorized to sell and convey parcels of certain state-owned real property and any improvements thereon under the possession and control of the University of Southern Mississippi Gulf Coast, located in the City of Pass Christian, Harrison County, Mississippi, known as the ‘Huckleberry Hill,’ being in Section 7, Township 8 South, Range 12 West, of the First Judicial District of Harrison County, Mississippi, and more particularly described as follows:

[For complete description of the property, see Laws of 2011, ch. 378, § 1.]

“(2) The real property described in subsection (1) of this section shall not be sold for less than the current fair market value as determined by the averaging of at least two (2) appraisals by qualified appraisers, one (1) of which shall be selected by the Department of Finance and Administration, and both of which shall be certified and licensed by the Mississippi Real Estate Appraiser Licensing and Certification Board.

“(3) The State of Mississippi shall retain all mineral rights to the real property sold under this section.

“(4) Proceeds from the sale of the real property described in subsection (1) of this section shall be deposited into a special fund in the State Treasury and shall be expended only for the benefit of the University of Southern Mississippi Gulf Coast.”



Laws of 2012, ch. 337, § 1, provides:

“SECTION 1. (1) The Department of Finance and Administration, acting on behalf of the Board of Trustees of State Institutions of Higher Learning, is authorized to sell and convey parcels of certain state-owned real property and any improvements thereon under the possession and control of the University of Southern Mississippi Gulf Coast, located in the City of Long Beach, Harrison County, Mississippi, being in Harrison County, Mississippi, and more particularly described as follows:

[For complete description of the property, see Laws of 2012, ch. 337, § 1.]

“(2) The real property described in subsection (1) of this section shall not be sold for less than the current fair market value as determined by the averaging of at least two (2) appraisals by qualified appraisers, one (1) of which shall be selected by the Department of Finance and Administration, and both of which shall be certified and licensed by the Mississippi Real Estate Appraiser Licensing and Certification Board. The real property described in subsection (1) may only be sold to a nonprofit entity located adjacent to that real property and with whom the university has begun negotiations to sell such real property.

“(3) The State of Mississippi shall retain all mineral rights to the real property sold under this section.

“(4) Proceeds from the sale of the real property described in subsection (1) of this section shall be deposited into a special fund in the State Treasury and shall be expended only for the benefit of the University of Southern Mississippi Gulf Coast.”

Laws of 2012, ch. 460, § 1, provides:

“SECTION 1. (1) The Department of Finance and Administration, acting on behalf of the Board of Trustees of State Institutions of Higher Learning, is authorized to sell and convey certain state-owned real property under the possession and control of the University of Southern Mississippi, being in Block 27 of the City of Hattiesburg, Forrest County, Mississippi, and more particularly described as follows:

[For complete description of the property, see Laws of 2012, ch. 460, § 1.]

“(2) The real property described in subsection (1) of this section shall not be sold for less than the current fair market value as determined by the averaging of at least two (2) appraisals by qualified appraisers, one (1) of whom shall be selected by the Department of Finance and Administration, and both of whom shall be certified and licensed by the Mississippi Real Estate Appraiser Licensing and Certification Board.

“(3) The State of Mississippi shall retain all mineral rights to the real property sold under this section.

“(4) Proceeds from the sale of the real property described in subsection (1) of this section shall be deposited into a special fund in the State Treasury and shall be expended only for the benefit of the University of Southern Mississippi.”

### **§ 37-119-9. Authorization to borrow funds to establish certified registered nurse anesthetist education and training program.**

The University of Southern Mississippi, with the approval of the Board of Trustees of State Institutions of Higher Learning, is hereby granted the legal authority to borrow funds for the purpose of establishing and operating a certified registered nurse anesthetist educational and training program within the university's existing School of Nursing on its Hattiesburg campus. The purposes for which the funds from the loan may be utilized shall include, but not be limited to, any and all start-up costs, operation costs, personnel costs, equipment and educational materials.

SOURCES: Laws, 2012, ch. 407, § 1, eff from and after passage (approved Apr. 18, 2012.)

§ 37-119-11. DuBard School for Language Disorders Fund created.

There is created in the State Treasury a special fund to be known as the DuBard School for Language Disorders Fund, which shall be administered by the Board of Trustees of State Institutions of Higher Learning. The purpose of the fund shall be to support the DuBard School for Language Disorders at the University of Southern Mississippi. Monies in the fund shall be expended by the board of trustees, upon appropriation by the Legislature. The fund shall be a continuing fund, not subject to fiscal-year limitations, and shall consist of:

- (a) Monies appropriated by the Legislature for the purposes of funding the DuBard School for Language Disorders;
- (b) The interest accruing to the fund;
- (c) Monies received under the provisions of Section 99-19-73;
- (d) Monies received from the federal government;
- (e) Donations; and
- (f) Monies received from such other sources as may be provided by law.

SOURCES: Laws, 2012, ch. 554, § 4, eff from and after July 1, 2012.

Editor’s Note — Laws of 2012, ch. 554, § 6 provides:

“SECTION 6. During fiscal year 2013, the following agencies shall have the authority to receive, budget and expend the following amounts generated from the assessments enacted in House Bill No. 878, 2012 Regular Session:

“University of Mississippi Medical Center for the	
“Children’s Justice Center .....	\$750,000.00
“Board of Trustees of State Institutions of	
“Higher Learning for the DuBard School	
“for Language Disorders .....	\$300,000.00
“Attorney General’s office for the Children’s Advocacy	
“Centers of Mississippi .....	\$650,000.00
“Attorney General’s office for the Motorcycle	
“Officers Training Program .....	\$50,000.00

“The above listed escalations shall be done in accordance with the rules and regulations of the Department of Finance and Adminstration in a manner consistent with the escalation of federal funds.”

CHAPTER 121

Alcorn State University

SEC.	
37-121-9.	Marks Vegetable Processing Facility renamed the Clayton P. Henderson Vegetable Processing Facility.
37-121-11.	Alcorn State University Baseball Park named the Willie E. “Rat” McGowan, Sr., Baseball Stadium.
37-121-13.	Baseball field within the Willie E. “Rat” McGowan, Sr., Baseball Stadium named the “William ‘Bill’ Foster Baseball Field.”

**§ 37-121-9. Marks Vegetable Processing Facility renamed the Clayton P. Henderson Vegetable Processing Facility.**

The Marks Vegetable Processing Facility located at 1300 Killebrew Road in Marks, Mississippi, and operated by Alcorn State University, shall be named the Clayton P. Henderson Vegetable Processing Facility. Alcorn State University shall prepare a distinctive plaque to be placed in a prominent place within the Clayton P. Henderson Vegetable Processing Facility, which states the background, accomplishments and service to the state of the Honorable Clayton P. Henderson.

**SOURCES:** Laws, 2009, ch. 561, § 8, eff from and after passage (approved May 13, 2009.)

**§ 37-121-11. Alcorn State University Baseball Park named the Willie E. “Rat” McGowan, Sr., Baseball Stadium.**

The Alcorn State University Baseball Park on the campus of Alcorn State University in Lorman, Mississippi, shall be named the Willie E. “Rat” McGowan, Sr., Baseball Stadium. The Department of Finance and Administration shall prepare a distinctive plaque to be placed in a prominent place within the Willie E. “Rat” McGowan, Sr., Baseball Stadium, which states the background, accomplishments and service to the university of Mr. McGowan.

**SOURCES:** Laws, 2010, ch. 509, § 5, eff from and after passage (approved Apr. 13, 2010.)

**§ 37-121-13. Baseball field within the Willie E. “Rat” McGowan, Sr., Baseball Stadium named the “William ‘Bill’ Foster Baseball Field.”**

The baseball field within the Willie E. “Rat” McGowan, Sr., Baseball Stadium, as designated in Section 37-121-11, located on the campus of Alcorn State University in Lorman, Mississippi, shall be named the William “Bill” Foster Baseball Field. The Department of Finance and Administration shall prepare a distinctive plaque to be placed in a prominent place on the William “Bill” Foster Baseball Field, which states the background, accomplishments and service to the university of Mr. Foster.

**SOURCES:** Laws, 2010, ch. 509, § 6, eff from and after passage (approved Apr. 13, 2010.)

**Joint Legislative Committee Note** — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a statutory reference in this section. The reference to “Section 1 of this act” was changed to “Section 37-121-11,” which was enacted by Section 5 of Chapter 509, Laws of 2010. The Joint Committee ratified the correction at its July 13, 2011, meeting.



## CHAPTER 123

### Delta State University

#### § 37-123-1. Organization.

**Editor's Note** — Laws of 2011, ch. 507, § 1, provides:

“SECTION 1. (1) The Department of Finance and Administration, acting on behalf of the Board of Trustees of State Institutions of Higher Learning, is authorized to sell and convey parcels of certain state-owned real property and any improvements thereon under the possession and control of the Delta State University, located in the City of Cleveland, Bolivar County, Mississippi, ...”

[For complete property descriptions see Laws of 2011, ch. 507, § 1.]

“(2) The real property described in subsection (1) of this section shall not be sold for less than the current fair market value as determined by the averaging of at least two (2) appraisals by qualified appraisers which shall be certified and licensed by the Mississippi Real Estate Appraiser Licensing and Certification Board.

“(3) The State of Mississippi shall retain all mineral rights to the real property sold under this section.

“(4) Proceeds from the sale of the real property described in subsection (1) of this section shall be deposited into a special fund in the State Treasury and shall be expended only for the benefit of Delta State University.”

## CHAPTER 125

### Jackson State University

#### § 37-125-1. Creation.

**Cross References** — Mississippi Veterans memorial Stadium to be home stadium of Jackson State University, see § 55-23-6.

## JUDICIAL DECISIONS

#### 3. Sovereign Immunity.

Former state university student's 42 U.S.C.S. §§ 1981, 1983 race discrimination claims against the university, a state board of trustees, and several professors were barred under the U.S. Const. Amend. XI doctrine of sovereign immunity; both the university and the board were arms of the State of Mississippi where the board was created pursuant to Miss. Const. Art. 8, § 213A, the Mississippi Legislature

granted further authority to the board via Miss. Code Ann. § 37-101-1, and the university was a public university created by statute and placed under the auspices of the board via Miss. Code Ann. §§ 37-125-1 et seq. and 37-101-1. *Washington v. Jackson State Univ.*, 532 F. Supp. 2d 804 (S.D. Miss. Mar. 15, 2006), appeal dismissed by 244 Fed. Appx. 589, 2007 U.S. App. LEXIS 18811 (5th Cir. Miss. 2007).

## CHAPTER 129

### Nursing Schools and Scholarships

SEC.

37-129-1. Regulation of nursing schools and programs.

**§ 37-129-1. Regulation of nursing schools and programs.**

In addition to all other powers and duties now vested by law in the Board of Trustees of State Institutions of Higher Learning of the State of Mississippi, said board is hereby empowered and required to:

(a) Establish by rules and regulations and promulgate uniform standards for accreditation of schools of nursing in the State of Mississippi (i) insofar as concerns the eligibility of graduates of such schools to take the examination prescribed by law to become registered nurses authorized to practice the profession of nursing as registered nurses in Mississippi, and (ii) insofar as concerns student nurses attending such schools being eligible to participate in any student nurse scholarship program or other program of assistance now existing or hereafter established by legislative enactment;

(b) Issue to such schools of nursing upon an annual basis certificates of accreditation as may be proper under such standards;

(c) Administer any scholarship program or other program of assistance heretofore or hereafter established by legislative enactment for the benefit of students attending accredited schools of nursing in this state;

(d) Administer any other funds available or which may be made available for the promotion of nursing education in the state, with the exception of nursing faculty supplement funds to the public junior colleges, which funds shall be appropriated to and administered by the Division of Junior Colleges of the State Department of Education;

(e) Adopt rules and regulations to provide that a nurse in training may, during the two-year period in an approved hospital, be allowed to transfer at any time with full credit after six (6) months in training, to any other hospital of her choice at which there is a vacancy; suitable provision shall be made to protect her against coercion or intimidation concerning such a contemplated transfer.

In addition to other powers now vested by law in the Board of Trustees of State Institutions of Higher Learning, said board is hereby empowered to establish and maintain a nurse-midwifery education program that meets the accreditation standards of the American College of Nurse-Midwives at a state institution of higher learning under the jurisdiction of the board of trustees.

In order to implement paragraph (d) above, the Board of Trustees of State Institutions of Higher Learning is hereby authorized and directed to arrange and contract with hospitals, senior colleges and hospital schools of nursing for the financial support of programs of nursing education. The said board is further authorized to adopt such terms for contracts, and such rules and regulations for reimbursing contracting agencies for costs of instruction in schools of nursing as may be feasible in accordance with appropriations made by the Legislature for this purpose. However, no reimbursement may be made to contracting agencies in excess of the actual cost of instruction in the schools of nursing.

In addition to the powers now vested by law in the Board of Trustees of State Institutions of Higher Learning and subject to the availability of funds

specifically appropriated therefor, said board is hereby empowered and directed to conduct a one-year feasibility study and comprehensive plan for nursing schools in Mississippi which addresses the concept of shared utilization of clinical simulation laboratories for all Mississippi schools of nursing in order to provide computerized interactive learning capabilities for all schools, utilizing the pooled resources or mobile capability models from other states. The completed plan shall be developed and a report made to the 2009 Regular Session on or before December 1, 2008.

No provision of this section shall be construed to authorize any department, agency, officer or employee of the State of Mississippi to exercise any controls over the admissions policy of any private educational institution offering a baccalaureate degree in nursing.

**SOURCES:** Codes, 1942, § 6726.9; Laws, 1954, ch. 280, §§ 1-4; Laws, 1960, ch. 312; Laws, 1979, ch. 337, § 1; Laws, 1980, ch. 549; Laws, 1985, ch. 378; Laws, 2008, ch. 320, § 1, eff from and after July 1, 2008.

**Amendment Notes** — The 2008 amendment, in (a), substituted “(i)” for “(1)” and “(ii)” for “(2)”; in the first sentence of the third-to-last paragraph, substituted “paragraph (d)” for “subsection (d)”; and added the next-to-last paragraph.

## CHAPTER 135

### Compacts with Other States

Interstate Compact on Educational Opportunity for Military Children 37-135-31

#### INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN

Sec.  
37-135-31. Purpose; applicability; educational records and enrollment; placement and attendance; eligibility; graduation; state coordination; Interstate Commission on Educational Opportunity for Military Children powers and duties, organization and operation, rule-making functions, oversight, enforcement and dispute resolution, and financing; member states, effective date and amendment; withdrawal and dissolution; severability and construction; other laws.

**§ 37-135-31. Purpose; applicability; educational records and enrollment; placement and attendance; eligibility; graduation; state coordination; Interstate Commission on Educational Opportunity for Military Children powers and duties, organization and operation, rule-making functions, oversight, enforcement and dispute resolution, and financing; member states, effective date and amendment; withdrawal and dissolution; severability and construction; other laws.**

#### ARTICLE I PURPOSE

It is the purpose of this compact to remove barriers to educational success



imposed on children of military families because of frequent moves and deployment of their parents by:

A. Facilitating the timely enrollment of children of military families and ensuring that they are not placed at a disadvantage due to difficulty in the transfer of education records from the previous school district(s) or variations in entrance/age requirements.

B. Facilitating the student placement process through which children of military families are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content or assessment.

C. Facilitating the qualification and eligibility for enrollment, educational programs, and participation in extracurricular academic, athletic, and social activities.

D. Facilitating the on-time graduation of children of military families.

E. Providing for the promulgation and enforcement of administrative rules implementing the provisions of this compact.

F. Providing for the uniform collection and sharing of information between and among member states, schools, and military families under this compact.

G. Promoting coordination between this compact and other compacts affecting military children.

H. Promoting flexibility and cooperation between the educational system, parents, and the student in order to achieve educational success for the student.

## **ARTICLE II DEFINITIONS**

As used in this compact, unless the context clearly requires a different construction:

A. "Active duty" means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 USC, Sections 1209 and 1211.

B. "Children of military families" means school-aged children, enrolled in Kindergarten through 12th Grade, in the household of an active duty member.

C. "Compact commissioner" means the voting representative of each compacting state appointed pursuant to Article VIII of this compact.

D. "Deployment" means the period one (1) month prior to the service members' departure from their home station on military orders through six (6) months after return to their home station.

E. "Educational records" means those official records, files, and data directly related to a student and maintained by the school or local education agency, including, but not limited to, records encompassing all the material kept in the student's cumulative folder such as general identifying data, records of attendance and of academic work completed, records of achieve-

ment and results of evaluative tests, health data, disciplinary status, test protocols, and individualized education programs.

F. "Extracurricular activities" means a voluntary activity sponsored by the school or local education agency or an organization sanctioned by the local education agency. Extracurricular activities include, but are not limited to, preparation for and involvement in public performances, contests, athletic competitions, demonstrations, displays and club activities.

G. "Interstate Commission on Educational Opportunity for Military Children" means the commission that is created under Article IX of this compact, which is generally referred to as the Interstate Commission.

H. "Local education agency" means a public authority legally constituted by the state as an administrative agency to provide control of and direction for Kindergarten through 12th Grade public educational institutions.

I. "Member state" means a state that has enacted this compact.

J. "Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the Department of Defense, including any leased facility, which is located within any of the several states, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands, and any other U.S. Territory. Such term does not include any facility used primarily for civil works, river and harbor projects, or flood control projects.

K. "Nonmember state" means a state that has not enacted this compact.

L. "Receiving state" means the state to which a child of a military family is sent, brought, or caused to be sent or brought.

M. "Rule" means a written statement by the Interstate Commission promulgated pursuant to Article XII of this compact that is of general applicability; implements, interprets, or prescribes a policy or provision of the compact, or an organizational, procedural, or practice requirement of the Interstate Commission and has the force and effect of statutory law in a member state; and includes the amendment, repeal, or suspension of an existing rule.

N. "Sending state" means the state from which a child of a military family is sent, brought, or caused to be sent or brought.

O. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands, and any other U.S. Territory.

P. "Student" means the child of a military family for whom the local education agency receives public funding and who is formally enrolled in Kindergarten through 12th Grade.

Q. "Transition" means: (i) the formal and physical process of transferring from school to school or (ii) the period of time in which a student moves from one school in the sending state to another school in the receiving state.

R. "Uniformed services" means the Army, Navy, Air Force, Marine Corps, Coast Guard, as well as the Commissioned Corps of the National Oceanic and Atmospheric Administration, and Public Health Services.

S. “Veteran” means a person who served in the active military, naval, or air service and who was discharged or released therefrom under conditions other than dishonorable.

### ARTICLE III APPLICABILITY

A. Except as otherwise provided in subsection B, this compact shall apply to the children of:

1. Active duty members of the uniformed services as defined in this compact, including members of the National Guard and Reserve on active duty orders pursuant to 10 USC, Sections 1209 and 1211;

2. Members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one (1) year after medical discharge or retirement; and

3. Members of the uniformed services who die on active duty or as a result of injuries sustained on active duty for a period of one (1) year after death.

B. The provisions of this interstate compact shall only apply to local education agencies as defined in this compact.

C. The provisions of this interstate compact shall not apply to the children of:

1. Inactive members of the National Guard and Military Reserves;

2. Members of the uniformed services now retired, except as provided in subsection A;

3. Veterans of the uniformed services, except as provided in subsection A; and

4. Other U.S. Department of Defense personnel and other federal agency civilian and contract employees not defined as active duty members of the uniformed services.

### ARTICLE IV EDUCATIONAL RECORDS AND ENROLLMENT

A. Unofficial or “hand-carried” education records. In the event that official education records cannot be released to the parents for the purpose of transfer, the custodian of the records in the sending state shall prepare and furnish to the parent a complete set of unofficial educational records containing uniform information as determined by the Interstate Commission. Upon receipt of the unofficial education records by a school in the receiving state, the school shall enroll and appropriately place the student based on the information provided in the unofficial records pending validation by the official records, as quickly as possible.

B. Official education records/transcripts. Simultaneous with the enrollment and conditional placement of the student, the school in the receiving state shall request the student’s official education records from the school in the sending state. Upon receipt of this request, the school in the sending state will process and furnish the official education records to the school in the receiving state within ten (10) days or within such time as is reasonably determined under the rules promulgated by the Interstate Commission.



C. Immunizations. Compacting states shall give thirty (30) days from the date of enrollment or within such time as is reasonably determined under the rules promulgated by the Interstate Commission for students to obtain any immunization(s) required by the receiving state. For a series of immunizations, initial vaccinations must be obtained within thirty (30) days or within such time as is reasonably determined under the rules promulgated by the Interstate Commission.

D. Kindergarten and First Grade entrance age. Students shall be allowed to continue their enrollment at the grade level in the receiving state commensurate with their grade level (including kindergarten) from a local education agency in the sending state at the time of transition, regardless of age. A student who has satisfactorily completed the prerequisite grade level in the local education agency in the sending state shall be eligible for enrollment in the next highest grade level in the receiving state, regardless of age. A student transferring after the start of the school year in the receiving state shall enter the school in the receiving state on their validated level from an accredited school in the sending state.

## ARTICLE V PLACEMENT AND ATTENDANCE

A. Course placement. When the student transfers before or during the school year, the receiving state school shall initially honor placement of the student in educational courses based on the student's enrollment in the sending state school and/or educational assessments conducted at the school in the sending state if the courses are offered. Course placement includes, but is not limited to, honors, International Baccalaureate, advanced placement, vocational, technical, and career pathway courses. Continuing the student's academic program from the previous school and promoting placement in academically and career challenging courses should be paramount when considering placement. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the course(s).

B. Educational program placement. The receiving state school shall initially honor placement of the student in educational programs based on current educational assessments conducted at the school in the sending state or participation/placement in like programs in the sending state. Such programs include, but are not limited to, (i) gifted and talented programs, and (ii) English as a second language (ESL). This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

C. Special education services. In compliance with the federal requirements of the Individuals with Disabilities Education Act (IDEA), 20 USC, Section 1400 et seq., the receiving state shall initially provide comparable services to a student with disabilities based on his/her current Individualized Education Program (IEP) and in compliance with the requirements of Section 504 of the Rehabilitation Act, 29 USC, Section 794, and with Title II of the Americans with Disabilities Act, 42 USC, Sections 12131-12165, and the

receiving state shall make reasonable accommodations and modifications to address the needs of incoming students with disabilities, subject to an existing 504 or Title II Plan, to provide the student with equal access to education. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

D. Placement flexibility. Local education agency administrative officials shall have flexibility in waiving course/program prerequisites or other preconditions for placement in courses/programs offered under the jurisdiction of the local education agency.

E. Absence as related to deployment activities. A student whose parent or legal guardian is an active duty member of the uniformed services, as defined by the compact, and has been called to duty for, is on leave from, or has immediately returned from deployment to a combat zone or combat support posting, shall be granted additional excused absences at the discretion of the local education agency superintendent to visit with his or her parent or legal guardian relative to such leave or deployment of the parent or guardian.

## **ARTICLE VI ELIGIBILITY**

### **A. Eligibility for enrollment.**

1. Special power of attorney, relative to the guardianship of a child of a military family, and executed under applicable law, shall be sufficient for the purposes of enrollment and all other actions requiring parental participation and consent;

2. A local education agency shall be prohibited from charging local tuition to a transitioning military child placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent; and

3. A transitioning military child, placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent, may continue to attend the school in which he/she was enrolled while residing with the custodial parent.

B. Eligibility for extracurricular participation. State and local education agencies shall facilitate the opportunity for transitioning military children's inclusion in extracurricular activities, regardless of application deadlines, to the extent they are otherwise qualified.

## **ARTICLE VII GRADUATION**

In order to facilitate the on-time graduation of children of military families, state and local education agencies shall incorporate the following procedures:

A. Waiver requirements. Local education agency administrative officials shall waive specific courses required for graduation if similar coursework has been satisfactorily completed in another local education agency or shall provide reasonable justification for denial. Should a waiver not be granted to a student who would qualify to graduate from the sending school,

the local education agency shall provide an alternative means of acquiring required coursework so that graduation may occur on time.

B. Exit exams. States shall accept: (i) exit or end-of-course exams required for graduation from the sending state, (ii) national norm-referenced achievement tests, or (iii) alternative testing, in lieu of testing requirements for graduation in the receiving state. In the event the above alternatives cannot be accommodated by the receiving state for a student transferring in his or her senior year, then the provisions of Article VII, subsection C shall apply.

C. Transfers during senior year. Should a military student transferring at the beginning or during his or her senior year be ineligible to graduate from the receiving local education agency after all alternatives have been considered, the sending and receiving local education agencies shall ensure the receipt of a diploma from the sending local education agency, if the student meets the graduation requirements of the sending local education agency. In the event that one of the states in question is not a member of this compact, the member state shall use best efforts to facilitate the on-time graduation of the student in accordance with subsections A and B of this Article.

## ARTICLE VIII STATE COORDINATION

A. Each member state shall, through the creation of a State Council or use of an existing body or board, provide for the coordination among its agencies of government, local education agencies, and military installations concerning the state's participation in, and compliance with, this compact and Interstate Commission activities. While each member state may determine the membership of its own State Council, its membership must include at least: (i) the state superintendent of education, (ii) the superintendent of a school district with a high concentration of military children, (iii) one (1) representative from a military installation, (iv) one (1) representative each from the legislative and executive branches of government, and other offices and stakeholder groups the State Council deems appropriate. A member state that does not have a school district deemed to contain a high concentration of military children may appoint a superintendent from another school district to represent local education agencies on the State Council.

B. The State Council of each member state shall appoint or designate a military family education liaison to assist military families and the state in facilitating the implementation of this compact.

C. The Governor of each member state shall appoint or designate a compact commissioner responsible for the administration and management of the state's participation in the compact and who is empowered to establish statewide policy related to matters governed by this compact.

D. The compact commissioner and the military family education liaison designated herein shall be ex officio members of the State Council, unless either is already a full voting member of the State Council.



**ARTICLE IX**  
**INTERSTATE COMMISSION ON EDUCATIONAL**  
**OPPORTUNITY FOR MILITARY CHILDREN**

The member states hereby create the Interstate Commission on Educational Opportunity for Military Children. The activities of the Interstate Commission are the formation of public policy and are a discretionary state function. The Interstate Commission shall:

A. Be a body corporate and joint agency of the member states and shall have all the responsibilities, powers, and duties set forth herein and such additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of this compact.

B. Consist of one (1) Interstate Commission voting representative from each member state who shall be that state's compact commissioner and who is empowered to establish statewide policy related to matters governed by this compact.

1. Each member state represented at a meeting of the Interstate Commission is entitled to one (1) vote;

2. A majority of the total member states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission;

3. A representative shall not delegate a vote to another member state. In the event the compact commissioner is unable to attend a meeting of the Interstate Commission, the Governor or State Council may delegate voting authority to another person from the state for a specified meeting; and

4. The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or electronic communication.

C. Consist of ex officio, nonvoting representatives who are members of interested organizations. Such ex officio members, as defined in the bylaws, may include, but not be limited to, members of the representative organizations of military family advocates, local education agency officials, parent and teacher groups, the U.S. Department of Defense, the Education Commission of the States, the Interstate Agreement on the Qualification of Educational Personnel, and other interstate compacts affecting the education of children of military members.

D. Meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the member states, shall call additional meetings.

E. Establish an executive committee, whose members shall include the officers of the Interstate Commission and such other members of the Interstate Commission as determined by the bylaws. Members of the executive committee shall serve a one-year term. Members of the executive committee shall be entitled to one (1) vote each. The executive committee shall have the power to act on behalf of the Interstate Commission, with the exception of rule-making, during periods when the Interstate Commission is not in session. The executive committee shall oversee the day-to-day

activities of the administration of the compact, including enforcement and compliance with the provisions of the compact, its bylaws and rules, and other such duties as deemed necessary. The U.S. Department of Defense shall serve as an ex officio, nonvoting member of the executive committee.

F. Establish bylaws and rules that provide for conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

G. Public notice shall be given by the Interstate Commission of all meetings, and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The Interstate Commission and its committees may close a meeting, or portion thereof, when it determines by two-thirds (2/3) vote that an open meeting would be likely to:

1. Relate solely to the Interstate Commission's internal personnel practices and procedures;
2. Disclose matters specifically exempted from disclosure by federal and state statute;
3. Disclose trade secrets or commercial or financial information that is privileged or confidential;
4. Involve accusing a person of a crime or formally censuring a person;
5. Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
6. Disclose investigative records compiled for law enforcement purposes; or
7. Specifically relate to the Interstate Commission's participation in a civil action or other legal proceeding.

H. For a meeting, or portion of a meeting, closed pursuant to the provisions of subsection G, the Interstate Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exemptible provision. The Interstate Commission shall keep minutes, which shall fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefor, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Interstate Commission.

I. The Interstate Commission shall collect standardized data concerning the educational transition of the children of military families under this compact as directed through its rules, which shall specify the data to be collected, the means of collection and data exchange, and reporting requirements. Such methods of data collection, exchange, and reporting shall, insofar as is reasonably possible, conform to current technology and coordi-

nate its information functions with the appropriate custodian of records as identified in the bylaws and rules.

J. The Interstate Commission shall create a process that permits military officials, education officials, and parents to inform the Interstate Commission if and when there are alleged violations of the compact or its rules or when issues subject to the jurisdiction of the compact or its rules are not addressed by the state or local education agency. This subsection shall not be construed to create a private right of action against the Interstate Commission or any member state.

## ARTICLE X

### POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The Interstate Commission shall have the following powers:

A. To provide for dispute resolution among member states.

B. To promulgate rules and take all necessary actions to effect the goals, purposes, and obligations as enumerated in this compact. The rules shall have the force and effect of statutory law and shall be binding in the compact states to the extent and in the manner provided in this compact.

C. To issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules, and actions.

D. To enforce compliance with the compact provisions, the rules promulgated by the Interstate Commission, and the bylaws, using all necessary and proper means, including, but not limited to, the use of judicial process.

E. To establish and maintain offices, which shall be located within one or more of the member states.

F. To purchase and maintain insurance and bonds.

G. To borrow, accept, hire, or contract for services of personnel.

H. To establish and appoint committees, including, but not limited to, an executive committee as required by Article IX, subsection E, which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties hereunder.

I. To elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties, and determine their qualifications and to establish the Interstate Commission's personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel.

J. To accept any and all donations and grants of money, equipment, supplies, materials, and services and to receive, utilize, and dispose of them.

K. To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve, or use any property, real, personal, or mixed.

L. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed.

M. To establish a budget and make expenditures.

N. To adopt a seal and bylaws governing the management and operation of the Interstate Commission.



O. To report annually to the legislatures, governors, judiciary, and state councils of the member states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission.

P. To coordinate education, training, and public awareness regarding the compact, its implementation, and operation for officials and parents involved in such activity.

Q. To establish uniform standards for the reporting, collecting, and exchanging of data.

R. To maintain corporate books and records in accordance with the bylaws.

S. To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

T. To provide for the uniform collection and sharing of information between and among member states, schools, and military families under this compact.

## ARTICLE XI ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

A. The Interstate Commission shall, by a majority of the members present and voting, within twelve (12) months after the first Interstate Commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including, but not limited to:

1. Establishing the fiscal year of the Interstate Commission;
2. Establishing an executive committee and such other committees as may be necessary;
3. Providing for the establishment of committees and for governing any general or specific delegation of authority or function of the Interstate Commission;
4. Providing reasonable procedures for calling and conducting meetings of the Interstate Commission and ensuring reasonable notice of each such meetings;
5. Establishing the titles and responsibilities of the officers and staff of the Interstate Commission;
6. Providing a mechanism for concluding the operations of the Interstate Commission and the return of surplus funds that may exist upon the termination of the compact after the payment and reserving all of its debts and obligations; and
7. Providing "start-up" rules for initial administration of the compact.

B. The Interstate Commission shall, by a majority of the members, elect annually from among its members a chairperson, a vice chairperson and a treasurer, each of whom shall have the authority and duties as may be specified in the bylaws. The chairperson or, in the chairperson's absence or disability, the vice chairperson shall preside at all meetings of the Interstate

Commission. The officers so elected shall serve without compensation or remuneration from the Interstate Commission provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for ordinary and necessary costs and expenses incurred by them in the performance of their responsibilities as officers of the Interstate Commission.

C. Executive Committee, officers, and personnel.

1. The executive committee shall have such authority and duties as may be set forth in the bylaws, including, but not limited to: (a) managing the affairs of the Interstate Commission in a manner consistent with the bylaws and purposes of the Interstate Commission; (b) overseeing an organizational structure within and appropriate procedures for the Interstate Commission to provide for the creation of rules, operating procedures, and administrative and technical support functions; and (c) planning, implementing, and coordinating communications and activities with other state, federal, and local government organizations in order to advance the goals of the Interstate Commission.

2. The executive committee may, subject to the approval of the Interstate Commission, appoint or retain an executive director for such period, upon such terms and conditions, and for such compensation as the Interstate Commission may deem appropriate. The executive director shall serve as secretary to the Interstate Commission, but shall not be a member of the Interstate Commission. The executive director shall hire and supervise such other persons as may be authorized by the Interstate Commission.

D. The Interstate Commission's executive director and its employees shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred, within the scope of Interstate Commission employment, duties, or responsibilities, provided that such person shall not be protected from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

1. The liability of the Interstate Commission's executive director and employees or the Interstate Commission representatives, acting within the scope of their employment or duties for acts, errors, or omissions occurring within such person's state, may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees, and agents. The Interstate Commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subsection D shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

2. The Interstate Commission shall defend the executive director and its employees and, subject to the approval of the Attorney General or other appropriate legal counsel of the member state represented by an Interstate Commission representative, shall defend such Interstate Commission rep-

representative in any civil action seeking to impose liability arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

3. To the extent not covered by the state involved, member state, or the Interstate Commission, the representatives or employees of the Interstate Commission shall be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

## ARTICLE XII

### RULE-MAKING FUNCTIONS OF THE INTERSTATE COMMISSION

A. Rule-making authority. The Interstate Commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of this compact. Notwithstanding the foregoing, in the event the Interstate Commission exercises its rule-making authority in a manner that is beyond the scope of the purposes of this compact, or the powers granted hereunder, then such an action by the Interstate Commission shall be invalid and have no force or effect.

B. Rule-making procedure. Rules shall be made pursuant to a rule-making process that substantially conforms to the "Model State Administrative Procedure Act," of 1981 Act, Uniform Laws Annotated, Vol. 15, p. 1 (2000) as amended, as may be appropriate to the operations of the Interstate Commission.

C. Not later than thirty (30) days after a rule is promulgated, any person may file a petition for judicial review of the rule provided that the filing of such a petition shall not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the Interstate Commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the Interstate Commission's authority.

D. If a majority of the Legislatures of the compacting states rejects a rule by enactment of a statute or resolution in the same manner used to adopt the compact, then such rule shall have no further force and effect in any compacting state.



**ARTICLE XIII**  
**OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION**

**A. Oversight.**

1. The executive, legislative, and judicial branches of state government in each member state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall have standing as statutory law;

2. All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities, or actions of the Interstate Commission; and

3. The Interstate Commission shall be entitled to receive all service of process in any such proceeding and shall have standing to intervene in the proceeding for all purposes. Failure to provide service of process to the Interstate Commission shall render a judgment or order void as to the Interstate Commission, this compact, or promulgated rules.

**B. Default, technical assistance, suspension, and termination.**

If the Interstate Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, or the bylaws or promulgated rules, the Interstate Commission shall:

1. Provide written notice to the defaulting state and other member states of the nature of the default, the means of curing the default, and any action taken by the Interstate Commission. The Interstate Commission shall specify the conditions by which the defaulting state must cure its default;

2. Provide remedial training and specific technical assistance regarding the default;

3. If the defaulting state fails to cure the default, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the member states, and all rights, privileges, and benefits conferred by this compact shall be terminated from the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default;

4. Suspension or termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Interstate Commission to the Governor, the majority and minority leaders of the defaulting state's Legislature, and each of the member states;

5. The state which has been suspended or terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of suspension or termination, including obligations the performance of which extends beyond the effective date of suspension or termination;

6. The Interstate Commission shall not bear any costs relating to any state that has been found to be in default or which has been suspended or terminated from the compact, unless otherwise mutually agreed upon in writing between the Interstate Commission and the defaulting state; and

7. The defaulting state may appeal the action of the Interstate Commission by petitioning the United States District Court for the District of Columbia or the federal district where the Interstate Commission has its principal offices. The prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.

C. Dispute resolution.

1. The Interstate Commission shall attempt, upon the request of a member state, to resolve disputes that are subject to the compact and that may arise among member states and between member and nonmember states.

2. The Interstate Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

D. Enforcement.

1. The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

2. The Interstate Commission may by majority vote of the members initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its principal offices to enforce compliance with the provisions of the compact, its promulgated rules and bylaws against a member state in default. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.

3. The remedies herein shall not be the exclusive remedies of the Interstate Commission. The Interstate Commission may avail itself of any other remedies available under state law or the regulation of a profession.

## ARTICLE XIV

### FINANCING OF THE INTERSTATE COMMISSION

A. The Interstate Commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities.

B. The Interstate Commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the Interstate Commission and its staff, which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, which shall promulgate a rule binding upon all member states.

C. The Interstate Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same nor shall the Interstate Commission pledge the credit of any of the member states, except by and with the authority of the member state.

D. The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under

its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

## ARTICLE XV

### MEMBER STATES, EFFECTIVE DATE, AND AMENDMENT

A. Any state is eligible to become a member state.

B. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than ten (10) of the states. The effective date shall be no earlier than December 1, 2008. Thereafter it shall become effective and binding as to any other member state upon enactment of the compact into law by that state. The Governors of nonmember states or their designees shall be invited to participate in the activities of the Interstate Commission on a nonvoting basis prior to adoption of the compact by all states.

C. The Interstate Commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding upon the Interstate Commission and the member states unless and until it is enacted into law by unanimous consent of the member states.

## ARTICLE XVI

### WITHDRAWAL AND DISSOLUTION

A. Withdrawal.

1. Once effective, the compact shall continue in force and remain binding upon each and every member state, provided that a member state may withdraw from the compact specifically by repealing the statute which enacted the compact into law.

2. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until one (1) year after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the Governor of each other member jurisdiction.

3. The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall notify the other member states of the withdrawing state's intent to withdraw within sixty (60) days of its receipt thereof.

4. The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, including obligations the performance of which extends beyond the effective date of withdrawal.

5. Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the Interstate Commission.

B. Dissolution of compact.

1. This compact shall dissolve effective upon the date of the withdrawal or default of the member state that reduces the membership in the compact to one (1) member state.



2. Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect and the business and affairs of the Interstate Commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

### ARTICLE XVII SEVERABILITY AND CONSTRUCTION

A. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

B. The provisions of this compact shall be liberally construed to effectuate its purposes.

C. Nothing in this compact shall be construed to prohibit the applicability of other interstate compacts to which the states are members.

### ARTICLE XVIII BINDING EFFECT OF COMPACT AND OTHER LAWS

A. Other laws.

1. Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with this compact.

2. All member states' laws conflicting with this compact are superseded to the extent of the conflict.

B. Binding effect of the compact.

1. All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the member states.

2. All agreements between the Interstate Commission and the member states are binding in accordance with their terms.

3. In the event any provision of this compact exceeds the constitutional limits imposed on the Legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

**SOURCES:** Laws, 2009, ch. 410, §§ 1-18, eff from and after passage (approved Mar. 18, 2009.)

**Joint Legislative Committee Note** — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation changed "Article VII, Section C shall apply" to "Article VII, subsection C shall apply" in Article VII, subsection B, and changed "This section" to "This subsection" in Article IX, subsection J. The Joint Committee ratified the correction at its July 22, 2010 meeting.

**Editor's Note** — The reference to "Article VII, Section C" in subsection B should be to "Article VII, subsection C."

Laws of 2009, ch. 410, § 19, provides:

"SECTION 19. This act shall take effect and be in force when enacted into law by no less than ten (10) of the fifty (50) United States."

On July 9, 2008, Delaware became the 10th state to enact this compact when the governor signed 76 De. Laws, c. 327, which contained the compact.

The reference to “Section C” in the last sentence of subsection B of Article VII should be to “subsection C.” This section is set out above as enacted by Chapter 410 of Laws of 2009.

**Comparable Laws from other States** — Arizona Revised Statutes, §15-1911.

Colorado Revised Statutes, §§ 24-60-3401 et seq.

Delaware Code Annotated, 14 De. C. § 160A et seq.

Florida Statutes Annotated, §§ 1000.36 et seq.

Burns Indiana Code Annotated, §§ 20-38-3-1 et seq.

Kansas Annotated Statutes, § 72-60c01.

Kentucky Revised Statutes Annotated, § 156.730.

Michigan Compiled Laws Service, §§ 3.1041, 3.1042.

Missouri Annotated Statutes, § 160.2000.

North Carolina General Statutes, § 115C-407.5

Oklahoma Statutes, 70 Okl. St. § 510.1.

Texas Education Code, §§ 162.001 et seq.

Virginia Code Annotated, §§ 22.1-360, 22.1-361.

## CHAPTER 143

### Omnibus Loan or Scholarship Act of 1991

SEC.

- 37-143-12. Speech-Language Pathologists Loan Forgiveness Program.
- 37-143-13. Health care professions' loan program.
- 37-143-15. Powers and duties of Board of Trustees of State Institutions of Higher Learning with respect to loan or scholarship programs.
- 37-143-19. Establishment of a consolidated revolving loan fund for operation of loan or scholarship programs.

### § 37-143-12. Speech-Language Pathologists Loan Forgiveness Program.

(1) There is established a Speech-Language Pathologists Loan Forgiveness Program. It is the intent of the Legislature that persons declaring an intention to work in an accredited public school (K-12) located in the State of Mississippi as a speech-language pathologist shall be eligible for a loan for the purpose of acquiring a master's level education in such profession. The Board of Trustees of State Institutions of Higher Learning shall enter into contracts with applicants, providing that such loans may be discharged by working as a master's level speech-language pathologist in an accredited public school (K-12) located in the State of Mississippi, for a period of time after graduation equal to the period of study provided under the loan. Such contracts shall provide that for each year of service, the appropriate portion of the outstanding balance of principal and interest of such loan shall be converted to interest-free scholarships and discharged.

(2) The Board of Trustees of State Institutions of Higher Learning, with the concurrence of the State Board of Education, shall jointly establish rules and regulations as it deems necessary and proper to carry out the purposes and intent of this section.

The provisions of this section shall be subject to specific appropriation therefor by the Legislature.

**SOURCES:** Laws, 2012, ch. 491, § 1, eff from and after July 1, 2012.

**§ 37-143-13. Health care professions' loan program.**

(1) There is established a health care professions' loan program. It is the intent of the Legislature that persons declaring an intention to work at certain state health institutions as nurses, nurse practitioners, speech pathologists, psychologists, occupational therapists and physical therapists, shall be eligible for a loan for the purpose of acquiring an education in such professions. The board of trustees shall enter into contracts with applicants, providing that such loans may be discharged by working as a health care professional in a state health institution, as defined in this section, for a period of time after graduation equal to the period of study provided under the scholarship. Such contracts shall provide that for each year of service, the appropriate portion of the outstanding balance of principal and interest of such loan shall be converted to interest-free scholarships and discharged.

(2) "State health institution" shall mean any of the following: Any facility or program operated by the Department of Mental Health; the State Board of Health; mental health/intellectual disability facilities under the administration of a regional commission as established under Section 41-19-31 which are certified by the Department of Mental Health; and health care facilities under the Department of Corrections.

(3) The board of trustees shall establish rules and regulations as it deems necessary and proper to carry out the purposes and intent of this section.

**SOURCES:** Laws, 1991, ch. 547, § 7; Laws, 1992, ch. 365, § 1; Laws, 2001, ch. 388, § 1; Laws, 2010, ch. 476, § 16, eff from and after passage (approved Apr. 1, 2010.)

**Amendment Notes** — The 2010 amendment, in (2), substituted "mental health/intellectual disability facilities" for "mental health/mental retardation facilities" and "established under Section 41-19-31" for "established pursuant to Section 41-19-31."

**§ 37-143-15. Powers and duties of Board of Trustees of State Institutions of Higher Learning with respect to loan or scholarship programs.**

The Board of Trustees of State Institutions of Higher Learning is authorized and empowered to establish loan or scholarship programs of like character, operation and purpose to the foregoing enumerated programs to encourage the participation of eligible worthy persons in courses of instruction in its institutions, and in furtherance of such power and authority is authorized: to adopt and implement rules and regulations declaring and describing the goals and objectives of such loan or scholarship programs; to establish the eligibility requirements for entry into such program and required for continuing participation for succeeding years; to determine the maximum amount to be made available to recipients; to delineate the terms and conditions of contracts with recipients and establish the service requirements for such



contracts, if any; to enter into contracts pertaining to such programs with recipients; to enter into loan agreements and other contracts with financial institutions or other providers of loan monies for scholarship or loan participants; and to allocate and utilize such funds as may be necessary for the operation of such loan or scholarship programs from the annual appropriation for student financial aid. In issuing rules and regulations governing the administration of the Graduate Teacher Summer Scholarship (GTS) Program, the Board of Trustees of State Institutions of Higher Learning shall provide that certified teachers at the Oakley Youth Development Center, under the jurisdiction of the Department of Human Services shall be fully eligible to participate in the program.

**SOURCES:** Laws, 1991, ch. 547, § 8; Laws, 1996, ch. 346, § 1; Laws, 2010, ch. 554, § 3, eff from and after July 1, 2011.

**Amendment Notes** — The 2010 amendment, effective from and after July 1, 2011, near the end, substituted “Oakley Youth Development Center” for “Columbia or Oakley Training Schools” and made a minor stylistic change.

### **§ 37-143-19. Establishment of a consolidated revolving loan fund for operation of loan or scholarship programs.**

The Board of Trustees of State Institutions of Higher Learning is authorized to establish a consolidated revolving loan fund for the purpose of providing monies for the operation of all loan or scholarship programs authorized to the Board of Trustees of State Institutions of Higher Learning by this chapter, and to the Postsecondary Education Financial Assistance Board by the provisions of Chapter 106, Title 37, Mississippi Code of 1972, and for the purpose of providing monies for the operation of such other loan programs as may be deemed appropriate and authorized by the Board of Trustees of State Institutions of Higher Learning from time to time for the furtherance of education of eligible applicants. The board shall be charged with the duty of directing the dispensing of such funds in a manner so as to best effectuate the purpose of this chapter. Any monies collected in the form of repayment of loans, both principal and interest, and the repayment of scholarship awards under Section 37-159-3(11) shall be deposited in this fund. The board of trustees is authorized to maintain such revolving fund in an official state depository and, in accordance with Section 27-105-21, Mississippi Code of 1972, shall invest such funds, less the amount required for current operation, at interest as required by said section. All interest earned on such investments shall likewise be deposited in said fund. From such revolving fund, the board of trustees shall provide the Postsecondary Education Financial Assistance Board such sums as shall be required to fulfill its role as lender of last resort to the Guarantee Student Loan program. The assets of the Postsecondary Education Financial Assistance Board, including cash and loans on hand, shall not exceed Five Hundred Thousand Dollars (\$500,000.00), and repayments of principal and interest and all other revenue of such board shall be deposited in the fund created hereby.

From and after the effective date of this chapter [Laws, 1991, Chapter 547, effective July 1, 1991], the sums maintained in the respective revolving funds being repealed by Chapter 547, Laws, 1991, or other revolving funds being maintained by the board of trustees shall become and constitute the monies of the consolidated revolving fund created by this section, wherever such funds may be physically located. The board of trustees is hereby authorized to transfer said funds to an official state depository, as aforesaid.

**SOURCES:** Laws, 1991, ch. 547, § 10; Laws, 2012, ch. 315, § 3, eff from and after passage (approved Apr. 3, 2012.)

**Amendment Notes** — The 2012 amendment substituted “and the repayment of scholarship awards under Section 37-159-3(11)” for “shall be deposited in this fund” in the third sentence of the first paragraph.

## CHAPTER 147

### Mississippi University Research Authority Act

SEC.  
37-147-9. Executive director of authority.

#### § 37-147-9. Executive director of authority.

The authority shall select an executive director who shall be the administrative officer of the authority and shall perform such duties as are required of him by law and such other duties as may be assigned by the authority. The executive director shall possess such qualifications as may be established by the authority. He shall receive such compensation as may be fixed by the authority.

The executive director, with the approval of the authority, shall employ such technical, professional and clerical help as may be authorized by the authority; and the authority, upon recommendation of the executive director, shall define the duties and fix the compensation of such employees.

**SOURCES:** Laws, 1992, ch. 530, § 5; Laws, 2011, ch. 406, § 1, eff from and after July 1, 2011.

**Amendment Notes** — The 2011 amendment substituted “such qualifications as may be established by the authority” for “a terminal degree from an accredited university and must have a demonstrated record of experience in the field of university research programs, organizational management and research grant management” in the second sentence of the first paragraph.

## CHAPTER 149

### Mississippi Teacher Center

SEC.  
37-149-1. Mississippi Teacher Center established; staff; steering committee; du-

ties; legislative findings; Mississippi Troops to Teachers pilot program established; collaboration with national program; status report.

**§ 37-149-1. Mississippi Teacher Center established; staff; steering committee; duties; legislative findings; Mississippi Troops to Teachers pilot program established; collaboration with national program; status report.**

(1) There is established within the State Department of Education, the Mississippi Teacher Center for the purpose of insuring that the children of our state are taught by quality professionals. The center shall serve as an interagency center focused on teacher recruitment, enhanced training and initial instructional support.

(2) The center shall have a staff which shall consist of one (1) director, one (1) administrative assistant and professional teacher recruiters. A steering committee shall be established which shall consist of one (1) member from each of the following: the Board of Trustees of State Institutions of Higher Learning, the State Board for Community and Junior Colleges, the State Board of Education, the Board of the Mississippi Association of Independent Colleges, the Board of the Mississippi Association of Colleges of Teacher Education, trustees of the local school boards, teachers and the private sector. The members of the steering committee shall be appointed by the State Superintendent with the approval of the board. The steering committee shall direct the work and establish policies for the purpose of operating the center.

(3) The center shall provide leadership for the following initiatives:

(a) The initiation and monitoring of high school programs for teacher recruitment;

(b) The initiation and monitoring of college level programs for teacher recruitment;

(c) The establishment of a Beginning Teacher/Mentoring program, as authorized in Sections 37-9-201 through 37-9-213;

(d) The sponsorship of a teacher renewal institute;

(e) The continuation of the Teacher Corps program;

(f) The enhancement of the William Winter Scholarship program;

(g) Research for the development of professional teaching standards;

(h) Provide additional scholarships for any targeted populations needing potential teachers; and

(i) Provide assistance to local school districts in identifying and locating specific teacher needs.

(4)(a) The Legislature recognizes that a highly qualified teacher in every public classroom in this state is fundamental to a quality education. The Legislature also recognizes that Mississippi has a serious shortage of qualified teachers to serve in the public schools of this state and that it has a responsibility to enact public policy in an effort to remedy that shortage of qualified teachers.

(b) There is hereby established a Mississippi "Troops to Teachers" pilot program in the State Department of Education to assist in the recruitment,



licensure, referral, placement and compensation of military personnel interested in beginning a second career in public education as a teacher. The Teacher Center in the State Department of Education shall collaborate with the national “Troops to Teachers” program to establish the criteria and procedures for allocation of funds provided by the federal government to administer the pilot program to ensure the most effective placement of such teachers around the state taking into consideration the degree of teacher shortage in each school district.

(c) The Legislature shall appropriate funds necessary for the support of this pilot program which will not supplant federal funds provided for that purpose. The Office of the Governor shall transfer any federal funds provided for the Mississippi “Troops to Teachers” program to the State Department of Education for the administration of this program.

(d) The Department of Education shall report to the Legislature no later than January 1, 2009, on the status of the implementation of the Mississippi “Troops to Teachers” program and the need for its continuation.

**SOURCES:** Laws, 1994, ch. 534, § 1; Laws, 1995, ch. 427, § 6; Laws, 1998, ch. 544, § 4; Laws, 2008, ch. 475, § 1, eff from and after July 1, 2008.

**Editor’s Note** — Section 37-4-5 provides that the terms “Junior College Commission” and “State Board for Community and Junior Colleges,” wherever they appear in the laws of Mississippi, shall mean the “Mississippi Community College Board.”

**Amendment Notes** — The 2008 amendment added (4).

**§ 37-149-7. Professional teacher recruiters; appointment; duties.**

**Editor’s Note** — Laws, 2008, ch. 416, § 1, provides:

“SECTION 1. The State Department of Education shall conduct a study to determine the need for and the potential benefits of establishing a career ladder opportunity program for assistant teachers employed in the public schools. The study must include suggestions on possible incentives and enhanced salary opportunities for: assistant teachers who continue their education toward the completion of a bachelor’s degree that ultimately leads to the acquisition of a Standard License to teach in Mississippi; and assistant teachers who already possess a bachelor’s degree and take steps that lead to the acquisition of a Standard License to teach. Before December 1, 2008, the department shall submit a report on the findings of this study, including recommendations on the implementation of such a program, to the Chairmen of the House and Senate Education and Appropriations Committees.”

**CHAPTER 151**

**Mississippi Accountability and Adequate Education Program Act of 1997**

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## IN GENERAL

- SEC.
- 37-151-5. Definitions.
- 37-151-7. Determination of annual allocations for current operation of schools under the adequate education program.
- 37-151-7.1. County tax assessors to provide State Department of Education certain information essential to determination of school district's contribution toward cost of Adequate Education Program.
- 37-151-8. State Board of Education to adopt regulations that require school districts receiving MAEP at-risk funds to use funds to implement programs to serve at-risk students; accountability for expenditure of funds.

**§ 37-151-5. Definitions.**

As used in Sections 37-151-5 and 37-151-7:

(a) "Adequate program" or "adequate education program" or "Mississippi Adequate Education Program (MAEP)" shall mean the program to establish adequate current operation funding levels necessary for the programs of such school district to meet at least a successful Level III rating of the accreditation system as established by the State Board of Education using current statistically relevant state assessment data.

(b) "Educational programs or elements of programs not included in the adequate education program calculations, but which may be included in appropriations and transfers to school districts" shall mean:

(i) "Capital outlay" shall mean those funds used for the constructing, improving, equipping, renovating or major repairing of school buildings or other school facilities, or the cost of acquisition of land whereon to construct or establish such school facilities.

(ii) "Pilot programs" shall mean programs of a pilot or experimental nature usually designed for special purposes and for a specified period of time other than those included in the adequate education program.

(iii) "Adult education" shall mean public education dealing primarily with students above eighteen (18) years of age not enrolled as full-time public school students and not classified as students of technical schools, colleges or universities of the state.

(iv) "Food service programs" shall mean those programs dealing directly with the nutritional welfare of the student, such as the school lunch and school breakfast programs.

(c) "Base student" shall mean that student classification that represents the most economically educated pupil in a school system meeting the definition of successful, as determined by the State Board of Education.

(d) "Base student cost" shall mean the funding level necessary for providing an adequate education program for one (1) base student, subject to any minimum amounts prescribed in Section 37-151-7(1).

(e) "Add-on program costs" shall mean those items which are included in the adequate education program appropriations and are outside of the program calculations:

(i) "Transportation" shall mean transportation to and from public schools for the students of Mississippi's public schools provided for under law and funded from state funds.

(ii) "Vocational or technical education program" shall mean a secondary vocational or technical program approved by the State Department of Education and provided for from state funds.

(iii) "Special education program" shall mean a program for exceptional children as defined and authorized by Sections 37-23-1 through 37-23-9, and approved by the State Department of Education and provided from state funds.

(iv) "Gifted education program" shall mean those programs for the instruction of intellectually or academically gifted children as defined and provided for in Section 37-23-175 et seq.

(v) "Alternative school program" shall mean those programs for certain compulsory-school-age students as defined and provided for in Sections 37-13-92 and 37-19-22.

(vi) "Extended school year programs" shall mean those programs authorized by law which extend beyond the normal school year.

(vii) "University-based programs" shall mean those university-based programs for handicapped children as defined and provided for in Section 37-23-131 et seq.

(viii) "Bus driver training" programs shall mean those driver training programs as provided for in Section 37-41-1.

(f) "Teacher" shall include any employee of a local school who is required by law to obtain a teacher's license from the State Board of Education and who is assigned to an instructional area of work as defined by the State Department of Education.

(g) "Principal" shall mean the head of an attendance center or division thereof.

(h) "Superintendent" shall mean the head of a school district.

(i) "School district" shall mean any type of school district in the State of Mississippi, and shall include agricultural high schools.

(j) "Minimum school term" shall mean a term of at least one hundred eighty (180) days of school in which both teachers and pupils are in regular attendance for scheduled classroom instruction for not less than sixty percent (60%) of the normal school day. It is the intent of the Legislature that any tax levies generated to produce additional local funds required by any school district to operate school terms in excess of one hundred seventy-five (175) days shall not be construed to constitute a new program for the purposes of exemption from the limitation on tax revenues as allowed under Sections 27-39-321 and 37-57-107 for new programs mandated by the Legislature.

(k) The term "transportation density" shall mean the number of transported children in average daily attendance per square mile of area served in a school district, as determined by the State Department of Education.

(l) The term "transported children" shall mean children being transported to school who live within legal limits for transportation and who are



otherwise qualified for being transported to school at public expense as fixed by Mississippi state law.

(m) The term “year of teaching experience” shall mean nine (9) months of actual teaching in the public or private schools. In no case shall more than one (1) year of teaching experience be given for all services in one (1) calendar or school year. In determining a teacher’s experience, no deduction shall be made because of the temporary absence of the teacher because of illness or other good cause, and the teacher shall be given credit therefor. Beginning with the 2003-2004 school year, the State Board of Education shall fix a number of days, not to exceed forty-five (45) consecutive school days, during which a teacher may not be under contract of employment during any school year and still be considered to have been in full-time employment for a regular scholastic term. If a teacher exceeds the number of days established by the State Board of Education that a teacher may not be under contract but may still be employed, that teacher shall not be credited with a year of teaching experience. In determining the experience of school librarians, each complete year of continuous, full-time employment as a professional librarian in a public library in this or some other state shall be considered a year of teaching experience. If a full-time school administrator returns to actual teaching in the public schools, the term “year of teaching experience” shall include the period of time he or she served as a school administrator. In determining the salaries of teachers who have experience in any branch of the military, the term “year of teaching experience” shall include each complete year of actual classroom instruction while serving in the military. In determining the experience of speech-language pathologists and audiologists, each complete year of continuous full-time post master’s degree employment in an educational setting in this or some other state shall be considered a year of teaching experience. Provided, however, that school districts are authorized, in their discretion, to negotiate the salary levels applicable to certificated employees employed after July 1, 2009, who are receiving retirement benefits from the retirement system of another state, and the annual experience increment provided in Section 37-19-7 shall not be applicable to any such retired certificated employee.

(n) The term “average daily attendance” shall be the figure which results when the total aggregate attendance during the period or months counted is divided by the number of days during the period or months counted upon which both teachers and pupils are in regular attendance for scheduled classroom instruction less the average daily attendance for self-contained special education classes and, prior to full implementation of the adequate education program the department shall deduct the average daily attendance for the alternative school program provided for in Section 37-19-22.

(o) The term “local supplement” shall mean the amount paid to an individual teacher over and above the adequate education program salary schedule for regular teaching duties.

(p) The term “aggregate amount of support from ad valorem taxation” shall mean the amounts produced by the district’s total tax levies for operations.

(q) The term “adequate education program funds” shall mean all funds, both state and local, constituting the requirements for meeting the cost of the adequate program as provided for in Section 37-151-7.

(r) “Department” shall mean the State Department of Education.

(s) “Commission” shall mean the Mississippi Commission on School Accreditation created under Section 37-17-3.

(t) The term “successful school district” shall mean a Level III school district as designated by the State Board of Education using current statistically relevant state assessment data.

(u) “Dual enrollment-dual credit programs” shall mean programs for potential or recent high school student dropouts to dually enroll in their home high school and a local community college in a dual credit program consisting of high school completion coursework and a work skills certificate program at the community college, as provided in Section 37-15-38(19).

**SOURCES:** Laws, 1994, ch. 581, § 3; Laws, 1997, ch. 612, § 2; Laws, 2000, ch. 433, § 2; Laws, 2002, ch. 323, § 1; Laws, 2003, ch. 546, § 6; Laws, 2004, ch. 420, § 1; Laws, 2006, ch. 473, § 1; Laws, 2009, ch. 508, § 3; Laws, 2012, ch. 521, § 2, eff from and after July 1, 2012.

**Amendment Notes** — The 2009 amendment added the last sentence of (m). The 2012 amendment added (u).

## ATTORNEY GENERAL OPINIONS

Teachers may add a partial year of teaching to another partial year of teaching in non-consecutive and different school years to total nine months of actual teaching to meet the requirements for a year of teaching. Further, teachers are not

prohibited from combining partial years taught in different districts to meet the requirement for a year of teaching experience. Shepherd, Dec. 16, 2005, A.G. Op. 05-0586.

### § 37-151-7. Determination of annual allocations for current operation of schools under the adequate education program.

The annual allocation to each school district for the operation of the adequate education program shall be determined as follows:

(1) **Computation of the basic amount to be included for current operation in the adequate education program.** The following procedure shall be followed in determining the annual allocation to each school district:

(a) **Determination of average daily attendance.** Effective with fiscal year 2011, the State Department of Education shall determine the percentage change from the prior year of each year of each school district’s average of months two (2) and three (3) average daily attendance (ADA)

for the three (3) immediately preceding school years of the year for which funds are being appropriated. For any school district that experiences a positive growth in the average of months two (2) and three (3) ADA each year of the three (3) years, the average percentage growth over the three-year period shall be multiplied times the school district's average of months two (2) and three (3) ADA for the year immediately preceding the year for which MAEP funds are being appropriated. The resulting amount shall be added to the school district's average of months two (2) and three (3) ADA for the year immediately preceding the year for which MAEP funds are being appropriated to arrive at the ADA to be used in determining a school district's MAEP allocation. Otherwise, months two (2) and three (3) ADA for the year immediately preceding the year for which MAEP funds are being appropriated will be used in determining a school district's MAEP allocation. In any fiscal year prior to 2010 in which the MAEP formula is not fully funded, for those districts that do not demonstrate a three-year positive growth in months two (2) and three (3) ADA, months one (1) through nine (9) ADA of the second preceding year for which funds are being appropriated or months two (2) and three (3) ADA of the preceding year for which funds are being appropriated, whichever is greater, shall be used to calculate the district's MAEP allocation. The district's average daily attendance shall be computed and currently maintained in accordance with regulations promulgated by the State Board of Education. The district's average daily attendance shall include any student enrolled in a Dual Enrollment-Dual Credit Program as defined and provided in Section 37-15-38(19). The State Department of Education shall make payments for Dual Enrollment-Dual Credit Programs to the home school in which the student is enrolled, in accordance with regulations promulgated by the State Board of Education. The community college providing services to students in a Dual Enrollment-Dual Credit Program shall require payment from the home school district for services provided to such students at a rate of one hundred percent (100%) of ADA. All MAEP/state funding shall cease upon completion of high school graduation requirements.

(b) **Determination of base student cost.** Effective with fiscal year 2011 and every fourth fiscal year thereafter, the State Board of Education, on or before August 1, with adjusted estimate no later than January 2, shall submit to the Legislative Budget Office and the Governor a proposed base student cost adequate to provide the following cost components of educating a pupil in a successful school district: (i) Instructional Cost; (ii) Administrative Cost; (iii) Operation and Maintenance of Plant; and (iv) Ancillary Support Cost. For purposes of these calculations, the Department of Education shall utilize financial data from the second preceding year of the year for which funds are being appropriated.

For the instructional cost component, the Department of Education shall select districts that have been identified as instructionally successful and have a ratio of a number of teachers per one thousand (1,000) students



that is between one (1) standard deviation above the mean and two (2) standard deviations below the mean of the statewide average of teachers per one thousand (1,000) students. The instructional cost component shall be calculated by dividing the latest available months one (1) through nine (9) ADA into the instructional expenditures of these selected districts. For the purpose of this calculation, the Department of Education shall use the following funds, functions and objects:

Fund 1120 Functions 1110-1199 Objects 100-999, Functions 1210, 1220, 2150-2159 Objects 210 and 215;

Fund 1130 All Functions, Object Code 210 and 215;

Fund 2001 Functions 1110-1199 Objects 100-999;

Fund 2070 Functions 1110-1199 Objects 100-999;

Fund 2420 Functions 1110-1199 Objects 100-999;

Fund 2711 All Functions, Object Code 210 and 215.

Prior to the calculation of the instructional cost component, there shall be subtracted from the above expenditures any revenue received for Chickasaw Cession payments, Master Teacher Certification payments and the district's portion of state revenue received from the MAEP at-risk allocation.

For the administrative cost component, the Department of Education shall select districts that have been identified as instructionally successful and have a ratio of an administrative staff to nonadministrative staff between one (1) standard deviation above the mean and two (2) standard deviations below the mean of the statewide average administrative staff to nonadministrative staff. The administrative cost component shall be calculated by dividing the latest available months one (1) through nine (9) ADA of the selected districts into the administrative expenditures of these selected districts. For the purpose of this calculation, the Department of Education shall use the following funds, functions and objects:

Fund 1120 Functions 2300-2599, Functions 2800-2899, Objects 100-999;

Fund 2711 Functions 2300-2599, Functions 2800-2899, Objects 100-999.

For the plant and maintenance cost component, the Department of Education shall select districts that have been identified as instructionally successful and have a ratio of plant and maintenance expenditures per one hundred thousand (100,000) square feet of building space and a ratio of maintenance workers per one hundred thousand (100,000) square feet of building space that are both between one (1) standard deviation above the mean and two (2) standard deviations below the mean of the statewide average. The plant and maintenance cost component shall be calculated by dividing the latest available months one (1) through nine (9) ADA of the selected districts into the plant and maintenance expenditures of these selected districts. For the purpose of this calculation, the Department of Education shall use the following funds, functions and objects:

Fund 1120 Functions 2600-2699, Objects 100-699 and Objects 800-999;

Fund 2711 Functions 2600-2699, Objects 100-699  
and Objects 800-999;  
Fund 2430 Functions 2600-2699, Objects 100-699  
and Objects 800-999.

For the ancillary support cost component, the Department of Education shall select districts that have been identified as instructionally successful and have a ratio of a number of librarians, media specialists, guidance counselors and psychologists per one thousand (1,000) students that is between one (1) standard deviation above the mean and two (2) standard deviations below the mean of the statewide average of librarians, media specialists, guidance counselors and psychologists per one thousand (1,000) students. The ancillary cost component shall be calculated by dividing the latest available months one (1) through nine (9) ADA into the ancillary expenditures instructional expenditures of these selected districts. For the purpose of this calculation, the Department of Education shall use the following funds, functions and objects:

Fund 1120 Functions 2110-2129, Objects 100-999;  
Fund 1120 Functions 2140-2149, Objects 100-999;  
Fund 1120 Functions 2220-2229, Objects 100-999;  
Fund 2001 Functions 2100-2129, Objects 100-999;  
Fund 2001 Functions 2140-2149, Objects 100-999;  
Fund 2001 Functions 2220-2229, Objects 100-999.

The total base cost for each year shall be the sum of the instructional cost component, administrative cost component, plant and maintenance cost component and ancillary support cost component, and any estimated adjustments for additional state requirements as determined by the State Board of Education. Provided, however, that the base student cost in fiscal year 1998 shall be Two Thousand Six Hundred Sixty-four Dollars (\$2,664.00).

For each of the fiscal years between the recalculation of the base student cost under the provisions of this paragraph (b), the base student cost shall be increased by an amount equal to forty percent (40%) of the base student cost for the previous fiscal year, multiplied by the latest annual rate of inflation for the State of Mississippi as determined by the State Economist, plus any adjustments for additional state requirements such as, but not limited to, teacher pay raises and health insurance premium increases.

**(c) Determination of the basic adequate education program cost.** The basic amount for current operation to be included in the Mississippi Adequate Education Program for each school district shall be computed as follows:

Multiply the average daily attendance of the district by the base student cost as established by the Legislature, which yields the total base program cost for each school district.

**(d) Adjustment to the base student cost for at-risk pupils.** The amount to be included for at-risk pupil programs for each school district shall be computed as follows: Multiply the base student cost for the appropriate fiscal year as determined under paragraph (b) by five percent

(5%), and multiply that product by the number of pupils participating in the federal free school lunch program in such school district, which yields the total adjustment for at-risk pupil programs for such school district.

(e) **Add-on program cost.** The amount to be allocated to school districts in addition to the adequate education program cost for add-on programs for each school district shall be computed as follows:

(i) Transportation cost shall be the amount allocated to such school district for the operational support of the district transportation system from state funds.

(ii) Vocational or technical education program cost shall be the amount allocated to such school district from state funds for the operational support of such programs.

(iii) Special education program cost shall be the amount allocated to such school district from state funds for the operational support of such programs.

(iv) Gifted education program cost shall be the amount allocated to such school district from state funds for the operational support of such programs.

(v) Alternative school program cost shall be the amount allocated to such school district from state funds for the operational support of such programs.

(vi) Extended school year programs shall be the amount allocated to school districts for those programs authorized by law which extend beyond the normal school year.

(vii) University-based programs shall be the amount allocated to school districts for those university-based programs for handicapped children as defined and provided for in Section 37-23-131 et seq., Mississippi Code of 1972.

(viii) Bus driver training programs shall be the amount provided for those driver training programs as provided for in Section 37-41-1, Mississippi Code of 1972.

The sum of the items listed above (i) transportation, (ii) vocational or technical education, (iii) special education, (iv) gifted education, (v) alternative school, (vi) extended school year, (vii) university-based, and (viii) bus driver training shall yield the add-on cost for each school district.

(f) **Total projected adequate education program cost.** The total Mississippi Adequate Education Program cost shall be the sum of the total basic adequate education program cost (paragraph (c)), and the adjustment to the base student cost for at-risk pupils (paragraph (d)) for each school district. In any year in which the MAEP is not fully funded, the Legislature shall direct the Department of Education in the K-12 appropriation bill as to how to allocate MAEP funds to school districts for that year.

(g) The State Auditor shall annually verify the State Board of Education's estimated calculations for the Mississippi Adequate Education Program that are submitted each year to the Legislative Budget Office on August 1 and the final calculation that is submitted on January 2.



(2) **Computation of the required local revenue in support of the adequate education program.** The amount that each district shall provide toward the cost of the adequate education program shall be calculated as follows:

(a) The State Department of Education shall certify to each school district that twenty-eight (28) mills, less the estimated amount of the yield of the School Ad Valorem Tax Reduction Fund grants as determined by the State Department of Education, is the millage rate required to provide the district required local effort for that year, or twenty-seven percent (27%) of the basic adequate education program cost for such school district as determined under paragraph (c), whichever is a lesser amount. In the case of an agricultural high school, the millage requirement shall be set at a level which generates an equitable amount per pupil to be determined by the State Board of Education.

(b) The State Department of Education shall determine the following from the annual assessment information submitted to the department by the tax assessors of the various counties: (i) the total assessed valuation of nonexempt property for school purposes in each school district; (ii) assessed value of exempt property owned by homeowners aged sixty-five (65) or older or disabled as defined in Section 27-33-67(2), Mississippi Code of 1972; (iii) the school district's tax loss from exemptions provided to applicants under the age of sixty-five (65) and not disabled as defined in Section 27-33-67(1), Mississippi Code of 1972; and (iv) the school district's homestead reimbursement revenues.

(c) The amount of the total adequate education program funding which shall be contributed by each school district shall be the sum of the ad valorem receipts generated by the millage required under this subsection plus the following local revenue sources for the appropriate fiscal year which are or may be available for current expenditure by the school district:

One hundred percent (100%) of Grand Gulf income as prescribed in Section 27-35-309.

One hundred percent (100%) of any fees in lieu of taxes as prescribed in Section 27-31-104.

(3) **Computation of the required state effort in support of the adequate education program.**

(a) The required state effort in support of the adequate education program shall be determined by subtracting the sum of the required local tax effort as set forth in subsection (2)(a) of this section and the other local revenue sources as set forth in subsection (2)(c) of this section in an amount not to exceed twenty-seven percent (27%) of the total projected adequate education program cost as set forth in subsection (1)(f) of this section from the total projected adequate education program cost as set forth in subsection (1)(f) of this section.

(b) Provided, however, that in fiscal year 1998 and in the fiscal year in which the adequate education program is fully funded by the Legisla-

ture, any increase in the said state contribution to any district calculated under this section shall be not less than eight percent (8%) in excess of the amount received by said district from state funds for the fiscal year immediately preceding. For purposes of this paragraph (b), state funds shall include minimum program funds less the add-on programs, State Uniform Millage Assistance Grant Funds, Education Enhancement Funds appropriated for Uniform Millage Assistance Grants and state textbook allocations, and State General Funds allocated for textbooks.

(c) If the school board of any school district shall determine that it is not economically feasible or practicable to operate any school within the district for the full one hundred eighty (180) days required for a school term of a scholastic year as required in Section 37-13-63, Mississippi Code of 1972, due to an enemy attack, a man-made, technological or natural disaster in which the Governor has declared a disaster emergency under the laws of this state or the President of the United States has declared an emergency or major disaster to exist in this state, said school board may notify the State Department of Education of such disaster and submit a plan for altering the school term. If the State Board of Education finds such disaster to be the cause of the school not operating for the contemplated school term and that such school was in a school district covered by the Governor's or President's disaster declaration, it may permit said school board to operate the schools in its district for less than one hundred eighty (180) days and, in such case, the State Department of Education shall not reduce the state contributions to the adequate education program allotment for such district, because of the failure to operate said schools for one hundred eighty (180) days.

(4) The Interim School District Capital Expenditure Fund is hereby established in the State Treasury which shall be used to distribute any funds specifically appropriated by the Legislature to such fund to school districts entitled to increased allocations of state funds under the adequate education program funding formula prescribed in Sections 37-151-3 through 37-151-7, Mississippi Code of 1972, until such time as the said adequate education program is fully funded by the Legislature. The following percentages of the total state cost of increased allocations of funds under the adequate education program funding formula shall be appropriated by the Legislature into the Interim School District Capital Expenditure Fund to be distributed to all school districts under the formula: Nine and two-tenths percent (9.2%) shall be appropriated in fiscal year 1998, twenty percent (20%) shall be appropriated in fiscal year 1999, forty percent (40%) shall be appropriated in fiscal year 2000, sixty percent (60%) shall be appropriated in fiscal year 2001, eighty percent (80%) shall be appropriated in fiscal year 2002, and one hundred percent (100%) shall be appropriated in fiscal year 2003 into the State Adequate Education Program Fund. Until July 1, 2002, such money shall be used by school districts for the following purposes:

(a) Purchasing, erecting, repairing, equipping, remodeling and enlarging school buildings and related facilities, including gymnasiums,

auditoriums, lunchrooms, vocational training buildings, libraries, school barns and garages for transportation vehicles, school athletic fields and necessary facilities connected therewith, and purchasing land therefor. Any such capital improvement project by a school district shall be approved by the State Board of Education, and based on an approved long-range plan. The State Board of Education shall promulgate minimum requirements for the approval of school district capital expenditure plans.

(b) Providing necessary water, light, heating, air conditioning, and sewerage facilities for school buildings, and purchasing land therefor.

(c) Paying debt service on existing capital improvement debt of the district or refinancing outstanding debt of a district if such refinancing will result in an interest cost savings to the district.

(d) From and after October 1, 1997, through June 30, 1998, pursuant to a school district capital expenditure plan approved by the State Department of Education, a school district may pledge such funds until July 1, 2002, plus funds provided for in paragraph (e) of this subsection (4) that are not otherwise permanently pledged under such paragraph (e) to pay all or a portion of the debt service on debt issued by the school district under Sections 37-59-1 through 37-59-45, 37-59-101 through 37-59-115, 37-7-351 through 37-7-359, 37-41-89 through 37-41-99, 37-7-301, 37-7-302 and 37-41-81, Mississippi Code of 1972, or debt issued by boards of supervisors for agricultural high schools pursuant to Section 37-27-65, Mississippi Code of 1972, or lease-purchase contracts entered into pursuant to Section 31-7-13, Mississippi Code of 1972, or to retire or refinance outstanding debt of a district, if such pledge is accomplished pursuant to a written contract or resolution approved and spread upon the minutes of an official meeting of the district's school board or board of supervisors. It is the intent of this provision to allow school districts to irrevocably pledge their Interim School District Capital Expenditure Fund allotments as a constant stream of revenue to secure a debt issued under the foregoing code sections. To allow school districts to make such an irrevocable pledge, the state shall take all action necessary to ensure that the amount of a district's Interim School District Capital Expenditure Fund allotments shall not be reduced below the amount certified by the department or the district's total allotment under the Interim Capital Expenditure Fund if fully funded, so long as such debt remains outstanding.

(e) [Repealed]

(f) [Repealed]

(g) The State Board of Education may authorize the school district to expend not more than twenty percent (20%) of its annual allotment of such funds or Twenty Thousand Dollars (\$20,000.00), whichever is greater, for technology needs of the school district, including computers, software, telecommunications, cable television, interactive video, film, low-power television, satellite communications, microwave communications, technology-based equipment installation and maintenance, and the training of staff in the use of such technology-based instruction. Any such technology



expenditure shall be reflected in the local district technology plan approved by the State Board of Education under Section 37-151-17, Mississippi Code of 1972.

(h) To the extent a school district has not utilized twenty percent (20%) of its annual allotment for technology purposes under paragraph (g), a school district may expend not more than twenty percent (20%) of its annual allotment or Twenty Thousand Dollars (\$20,000.00), whichever is greater, for instructional purposes. The State Board of Education may authorize a school district to expend more than said twenty percent (20%) of its annual allotment for instructional purposes if it determines that such expenditures are needed for accreditation purposes.

(i) The State Department of Education or the State Board of Education may require that any project commenced under this section with an estimated project cost of not less than Five Million Dollars (\$5,000,000.00) shall be done only pursuant to program management of the process with respect to design and construction. Any individuals, partnerships, companies or other entities acting as a program manager on behalf of a local school district and performing program management services for projects covered under this subsection shall be approved by the State Department of Education.

Any interest accruing on any unexpended balance in the Interim School District Capital Expenditure Fund shall be invested by the State Treasurer and placed to the credit of each school district participating in such fund in its proportionate share.

The provisions of this subsection (4) shall be cumulative and supplemental to any existing funding programs or other authority conferred upon school districts or school boards.

**SOURCES:** Laws, 1994, ch. 581, § 4; Laws, 1997, ch. 612, § 3; Laws, 2002, ch. 551, § 1; Laws, 2003, ch. 544, § 2; Laws, 2004, ch. 583, § 1; Laws, 2005, ch. 531, § 2; Laws, 2006, ch. 338, § 1; Laws, 2006, ch. 473, § 4; Laws, 2012, ch. 521, § 3, eff from and after July 1, 2012.

**Amendment Notes** — The 2012 amendment added the last four sentences in (1)(a); made minor stylistic changes throughout (1)(b); and inserted “the following from the annual assessment information submitted to the department from the annual assessment information submitted to the department by the tax assessors of the various counties” near the beginning in (2)(b).

### ATTORNEY GENERAL OPINIONS

The Mississippi Department of Education is authorized to take any action with regard to Mississippi Adequate Education Program Act (MAEP) refunding bonds that it was authorized to take with regard to the original issuance of MAEP bonds.

Likewise, even though the statutory language was repealed after the issuance of MAEP bonds, the state’s obligation arising from Section 37-151-7(e) relating to the MAEP bonds would be applicable to MAEP refunding bonds as well, if that

commitment is part and parcel of the original MAEP bond obligations. Bounds, Nov. 14, 2005, A.G. Op. 05-0530.

**§ 37-151-7.1. County tax assessors to provide State Department of Education certain information essential to determination of school district's contribution toward cost of Adequate Education Program.**

(1) Before February 1 of each year, the tax assessor of each county shall file a report or reports with the State Department of Education which provide information essential to the department in determining the amount that each school district shall be required to provide toward the cost of the Adequate Education Program Fund. A separate report must be filed for each school district or part of a school district situated in the county and must include the following information:

(a) The total assessed valuation of nonexempt property for school purposes in the school district;

(b) The assessed value of exempt property owned by homeowners aged sixty-five (65) or older or disabled, as defined in Section 27-33-67(2), in the school district;

(c) The school district's tax loss from exemptions provided to applicants under the age of sixty-five (65) and not disabled, as defined in Section 27-33-67(1); and

(d) The school district's homestead reimbursement revenues.

(2) The State Department of Education shall prepare and make available to the tax assessor of each county a form for the reports required under this section.

**SOURCES:** Laws, 2012, ch. 521, § 4, eff from and after July 1, 2012.

**§ 37-151-8. State Board of Education to adopt regulations that require school districts receiving MAEP at-risk funds to use funds to implement programs to serve at-risk students; accountability for expenditure of funds.**

The State Board of Education shall adopt rules and regulations that:

(a) Require school districts that receive allocations of Mississippi Adequate Education Program at-risk funds, as prescribed by Section 37-151-7(1)(d), to specifically target the expenditure of those funds to implement effective programs, as determined by the State Department of Education, to serve at-risk students; and

(b) Provide the methods by which school districts will be expected to account for all expenditures of at-risk funds and how school districts will be held accountable for the expenditure of at-risk funds.

**SOURCES:** Laws, 2008, ch. 462, § 5, eff from and after July 1, 2008.

## EDUCATION TECHNOLOGY ENHANCEMENT

SEC.

37-151-15 through 37-151-23. Repealed.

**§§ 37-151-15 through 37-151-23. Repealed.**

Repealed by Laws, 2011, ch. 374, § 1, effective from and after July 1, 2011.

§ 37-151-15. [Laws, 1994, ch. 581, § 18, eff from and after July 1, 1994.]

§ 37-151-17. [Laws, 1994, ch. 581, § 19; Laws, 1995, ch. 518, § 1; Laws, 2002, ch. 329, § 2; Laws, 2004, ch. 588, § 1; Laws, 2005, ch. 393, § 1; Laws, 2010, ch. 541, § 1, eff from and after passage (approved Apr. 27, 2010).]

§ 37-151-19. [Laws, 1994, ch. 581, § 20; Laws, 2004, ch. 588, § 2, eff from and after passage (approved May 27, 2004).]

§ 37-151-21. [Laws, 1994, ch. 581, § 21; Laws, 2004, ch. 588, § 3, eff from and after passage (approved May 27, 2004).]

§ 37-151-23. [Laws, 1994, ch. 581, § 22; Laws, 2005, ch. 521, § 1, eff from and after passage (approved Apr. 20, 2005).]

**Editor's Note** — Former § 37-151-15 provided the purpose of and definitions for terms used in §§ 37-151-15 through 37-151-61.

Former § 37-151-17 established the Council for Education Technology, prescribed its membership and defined its responsibilities.

Former § 37-151-19 required the Council for Education Technology to develop and implement a master plan for education technology.

Former § 37-151-21 required the Council for Education Technology to create a strategic plan for distance learning.

Former § 37-151-23 created the State Public School Education Technology Fund.

**§ 37-151-59. Effect of chapter on school district bonds.**

**Editor's Note** — Sections 37-151-15 through 37-151-23, which established the Council for Education Technology, referred to in this section, were repealed by Chapter 374, Laws of 2011, effective from and after July 1, 2011.

## ENHANCING SCHOOL TO WORK TRANSITION

**§ 37-151-75. State Board for Community and Junior Colleges designated as primary support agency; powers.**

**Editor's Note** — Section 37-4-5 provides that the terms "Junior College Commission" and "State Board for Community and Junior Colleges," wherever they appear in the laws of Mississippi, shall mean the "Mississippi Community College Board."

## PUPIL-TEACHER RATIOS

SEC.

37-151-77. Pupil-teacher ratio.



## § 37-151-77. Pupil-teacher ratio.

To qualify for funds provided in this chapter, each school district shall not exceed a pupil-teacher ratio based on enrollment in Grades 1, 2, 3 and 4 as follows: 27:1.

For Grades Kindergarten and 5 through 12, pupil-teacher ratio shall be determined based on appropriate accreditation standards developed by the Mississippi Commission on School Accreditation.

Any local district may apply to the State Board of Education for approval of a waiver to this section by submitting and justifying an alternative educational program to serve the needs of enrollment in Grades Kindergarten and 1 through 4. The State Board of Education shall approve or disapprove of such waiver forty-five (45) days after receipt of such application. If a school district violates the provisions of this section, the state aid for the ensuing fiscal year to such school district shall be reduced by the percentage variance that the actual pupil-teacher ratios in such school district has to the required pupil-teacher ratios mandated in this section. Provided, that notwithstanding the provisions of this section, the State Board of Education is authorized to waive the pupil-teacher requirements specified herein upon a finding that a good faith effort is being made by the school district concerned to comply with the ratio provisions but that for lack of classroom space which was beyond its control it is physically impossible for the district to comply, and the cost of temporary classroom space cannot be justified. In the event any school district meets the highest levels of accreditation standards as determined by the State Board of Education in the state's accountability system, the State Board of Education may, in its discretion, exempt such school district from the maximum pupil-teacher ratio in Grades 1, 2, 3 and 4 prescribed herein.

**SOURCES:** Laws, 1997, ch. 612, § 4; Laws, 2009, ch. 445, § 10, eff from and after July 1, 2009.

**Amendment Notes** — The 2009 amendment rewrote the last sentence in the last paragraph.

### ADD-ON PROGRAM COSTS

## § 37-151-85. Transportation allowance.

### ATTORNEY GENERAL OPINIONS

A school district may pay for a public school bus driver to obtain or renew a commercial drivers license. Manning, Feb. 2, 2006, A.G. Op. 05-0096.

A school district may adopt a policy which will allow it to pay school bus drivers for a medical examination expenses, not to exceed \$100.00, in order for the

driver to qualify for a commercial driver's license, and to adopt a policy which allows it to reimburse the driver for actual expenses, other than the cost of the medical examination, incurred in acquiring the license. Brister, Feb. 2, 2006, A.G. Op. 05-0075.

## FUNDS FOR TEACHER SALARIES

SEC.

37-151-87. Reduction of local supplement or support from ad valorem taxation.

**§ 37-151-87. Reduction of local supplement or support from ad valorem taxation.**

No school district shall pay any teacher less than the state minimum salary. Provided, however, that school districts are authorized to reduce the state minimum salary by a pro rata daily amount in order to comply with the school district employee furlough provisions of Section 37-7-308. From and after July 1, 2012, no school district shall receive any funds under the provisions of this chapter for any school year during which the aggregate amount of local supplement as defined in Section 37-151-5 shall have been reduced below such amount for the previous year. However, (a) where there has been a reduction in adequate education program allocations for such district in such year, (b) where there has been a reduction in the amount of federal funds to such district below the previous year, or (c) where there has been a reduction in ad valorem taxes to such school district for the 1986-1987 school year below the amount for the previous year due to the exemption of nuclear generating plants from ad valorem taxation pursuant to Section 27-35-309, Mississippi Code of 1972, the aggregate amount of local supplement in such district may be reduced in the discretion of the local school board without loss of funds under this chapter. No school district may receive any funds under the provisions of this chapter for any school year if the aggregate amount of support from ad valorem taxation shall be reduced during such school year below such amount for the previous year; however, where there is a loss in adequate education program allocations, or where there is or heretofore has been a decrease in the total assessed value of taxable property within a school district, the aggregate amount of such support may be reduced proportionately. Nothing herein contained shall prohibit any school district from adopting or continuing a program or plan whereby teachers are paid varying salaries according to the teaching ability, classroom performance and other similar standards.

**SOURCES:** Laws, 1997, ch. 612, § 9; Laws, 2010, ch. 486, § 4, eff from and after passage (approved Apr. 7, 2010.)

**Joint Legislative Committee Note** — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error in the fourth line of this section. The reference to “Section 37-151-1” was changed to “Section 37-151-5.” The Joint Committee ratified the correction at its August 5, 2008 meeting.

**Amendment Notes** — The 2010 amendment added the second sentence; added “From and after July 1, 2012,” in the third sentence; added the (a), (b) and (c) designations; and substituted “in the discretion of the local school board” for “proportionately” in the fourth sentence.

## DISTRIBUTION OF FUNDS

SEC.

- 37-151-97. Annual information report of State Department of Education.  
 37-151-103. Payment of funds.

### § 37-151-97. Annual information report of State Department of Education.

The State Department of Education shall develop an annual reporting process to inform the Legislature, local district personnel and the general public as to the ongoing and future plans for the state's educational programs. The annual reporting process will include those vital statistics that are commonly reported by schools and districts and that can provide clear demographic, strategic and educational information to constituencies such as, but not limited to, the following information:

- (a) Student enrollment, attendance, drop-out and graduation;
- (b) Overall student and district achievement;
- (c) Budget, administrative costs and other pertinent fiscal information, including:
  - (i) The receipts and disbursements of all school funds handled by the board;
  - (ii) Reports of expenditures for public schools, which, upon request must be made available on an individual district basis by the State Department of Education;
    - 1. Total Student Expenditures:
      - a. Instruction (1000s);
      - b. Other Student Instructional Expenditures (2100s, 2200s);
    - 2. General Administration (2300s and 2500s);
    - 3. School Administration (2400s);
    - 4. Other Expenditures (2600s, 2700s, 2800s, 3100s, 3200s); and
    - 5. Nonoperational Expenditures (4000s, 5000s, 6000s);
  - (iii) The number of school districts, schoolteachers employed, school administrators employed, pupils taught and the attendance record of pupils therein;
  - (iv) County and district levies for each school district and agricultural high school;
  - (v) The condition of vocational education, a list of schools to which federal and state aid has been given, and a detailed statement of the expenditures of federal funds and the state funds that may be provided, and the ranking of subjects taught as compared with the state's needs.
- (d) Other as directed by the State Board of Education.

Further, the reporting process will include an annual report developed specifically to relate the mission and goals of the State Board of Education, state superintendent and departments. This document will become the method through which the strategic planning and management process of the department is articulated to the public. It will explain and inform the public of the



major initiatives of the department and clearly identify rationale for program development and/or elimination. The report will establish benchmarks, future plans and discuss the effectiveness of educational programs.

In addition to the information specified herein, the State Board of Education shall have full and plenary authority and power to require the furnishing of such further, additional and supplementary information as it may deem necessary for the purpose of determining the cost of the adequate education program in such school district for the succeeding fiscal year, the amount of the adequate education program funds to be allotted to each school district for the succeeding fiscal year, and for any other purpose authorized by law or deemed necessary by said State Board of Education.

It shall be the duty of the State Department of Education to prescribe the forms for the reports provided for in this section.

**SOURCES:** Laws, 1997, ch. 612, § 14; Laws, 2011, ch. 442, § 6, eff from and after July 1, 2011.

**Amendment Notes** — The 2011 amendment added (c)(i)-(v) and made related changes; and deleted (d), which read “Teacher and administrator certification and experience levels.”

### § 37-151-103. Payment of funds.

(1) Funds due each school district under the terms of this chapter from the Adequate Education Program Fund shall be paid in the following manner: On the two (2) days prior to the last day of each month, or the next business date after that date, there shall be paid to each school district by electronic funds transfer one-twelfth ( $\frac{1}{12}$ ) of the funds to which the district is entitled from funds appropriated for the Adequate Education Program Fund. However, in December those payments shall be made on December 15th or the next business day after that date. All school districts shall process a single monthly payroll with electronic settlement of payroll checks secured through direct deposit of net pay for all school district employees. In addition, the State Department of Education may pay school districts from the common school fund and the Adequate Education Program Fund on a date earlier than provided for by this section if it is determined that it is in the best interest of school districts to do so.

Provided, however, that if the cash balance in the State General Fund is not adequate on the due date to pay the amounts due to all school districts in the state as determined by the State Superintendent of Education, the State Fiscal Officer shall not transfer said funds payable to any school district or districts until money is available to pay the amount due to all districts.

(2) Notwithstanding any provision of this chapter or any other law requiring the number of children in average daily attendance or the average daily attendance of transported children to be determined on the basis of the preceding year, the State Board of Education is hereby authorized and empowered to make proper adjustments in allotments in cases where major changes in the number of children in average daily attendance or the average

daily attendance of transported children occurs from one year to another as a result of changes or alterations in the boundaries of school districts, the sending of children from one county or district to another upon a contract basis, the termination or discontinuance of a contract for the sending of children from one county or district to another, a change in or relocation of attendance centers, or for any other reason which would result in a major decrease or increase in the number of children in average daily attendance or the average daily attendance of transported children during the current school year as compared with the preceding year.

(3) In the event of an inordinately large number of absentees in any school district as a result of epidemic, natural disaster, or any concerted activity discouraging school attendance, then in such event school attendance for the purposes of determining average daily attendance under the adequate education program shall be based upon the average daily attendance for the preceding school year for such school district.

**SOURCES:** Laws, 1997, ch. 612, § 17; Laws, 2002, ch. 551, § 3; Laws, 2003, ch. 546, § 2; Laws, 2012, ch. 543, § 5, eff from and after July 1, 2012.

**Amendment Notes** — The 2012 amendment, in the first paragraph of (1), substituted “On the two (2) days prior to the last day of each month” for “On the twenty-fifth day of each month” in the first sentence, and inserted the third sentence.

## ADMINISTRATION AND ENFORCEMENT

### § 37-151-107. Violations; penalties.

**Cross References** — Conversion charter schools may not be exempted from the provisions of this section, see § 37-165-7.

## CHAPTER 152

### Commission on Restructuring the Mississippi Adequate Education Program (MAEP)

SEC.

37-152-3.

Task force to study and report on failing schools and school districts, effectiveness measures for improvement of failing schools and school districts and enhancement of accountability and sanctions; task force composition and compensation; matters to be studied and reported on; staff; annual report of findings and recommendations [Repealed effective July 1, 2012].

**§ 37-152-3. Task force to study and report on failing schools and school districts, effectiveness measures for improvement of failing schools and school districts and enhancement of accountability and sanctions; task force composition and compensation; matters to be studied and reported on; staff; annual report of findings and recommendations [Repealed effective July 1, 2012].**

(1) It is the intent of the Legislature and the expectation of each community in the state that all children receive a quality public education and attend a school that provides for this opportunity. The Legislature also recognizes that annual performance reports show that a significant number of schools and school districts consistently underperform and fail to meet the minimum performance measures that define success.

(2) To assist the Legislature in shaping public policy to improve student outcomes and educational opportunities for all students in the state, there is established a task force to study and report on the status of failing schools and school districts in Mississippi, effectiveness measures for improvement of those schools and school districts, and enhancement of accountability and sanctions imposed on those schools and school districts.

(3) The task force shall be composed of the following fifteen (15) members:

- (a) The Chairmen of the House and Senate Education Committees;
- (b) The Chairmen of the House and Senate Appropriations Committees;
- (c) The State Superintendent of Public Education;
- (d) The Director of the Office of Educational Accountability, State Department of Education;

(e) A business leader in the state appointed by the Speaker of the House of Representatives from the Third Supreme Court District;

(f) A business leader in the state appointed by the Lieutenant Governor from the First Supreme Court District;

(g) A business leader in the state appointed by the Governor from the Second Supreme Court District;

(h) The Director of the Mississippi Economic Council, or his designee;

(i) The superintendent of a local public school district appointed by the Lieutenant Governor;

(j) A member of a local public school board appointed by the Speaker of the House of Representatives;

(k) A classroom teacher in a public school who has not less than five (5) years' teaching experience in the public schools, appointed by the State Superintendent of Public Education;

(l) A parent of a child who is a student in a public school, appointed by the Governor; and

(m) A representative of the Governor's office.

(4) Appointments to the task force must be made within thirty (30) days after July 1, 2009. Within fifteen (15) days after the expiration of the period for making appointments, on a day to be designated by the State Superintendent



of Public Education, the task force shall meet and organize by selecting from its membership a chairman and a vice chairman. The vice chairman also must serve as secretary and be responsible for keeping all records of the task force. A majority of the membership of the task force shall constitute a quorum. In the selection of its officers and the adoption of rules, resolutions and reports, an affirmative vote of a majority of the task force shall be required. All members must be notified in writing of all meetings at least five (5) days before the date on which a meeting of the task force is scheduled.

(5) The task force may contract for any professional services that it deems necessary to complete its work and may tour at least two (2) failing schools and school districts in the state and two (2) Level 5 schools and school districts in the state. The Legislature shall appropriate sufficient funding to the State Department of Education for the contractual costs and travel associated with attending meetings and for the on-site visits to school districts.

(6) Members of the task force who are not legislators, state officials or state employees shall be compensated at the per diem rate authorized by Section 25-3-69 and reimbursed in accordance with Section 25-3-41 for mileage and actual expenses incurred in the performance of their duties. Legislative members of the task force shall be paid from the contingent expense funds of their respective houses in the same manner as provided for committee meetings when the Legislature is not in session; however, no per diem or expense for attending meetings of the task force may be paid while the Legislature is in session. Task force members may not incur per diem, travel or other expenses unless previously authorized by vote at a meeting of the task force, which action must be recorded in the official minutes of the meeting. Nonlegislative members may be paid from any funds made available to the task force for that purpose.

(7) The task force shall compile data, study and report on the following matters:

(a) The factors used to determine and define both failing and Level 5 schools or school districts;

(b) Current resources and assistance available to both failing and Level 5 schools or school districts;

(c) Identification of additional assistance and resources which are needed in failing schools and school districts;

(d) How effectively failing schools and school districts utilize available assistance and resources;

(e) Current accountability measures and sanctions imposed on failing schools and school districts;

(f) A comparison of how other states across the nation provide assistance and resources and determine accountability measures and sanctions for failing schools and school districts;

(g) Practical and effective accountability measures and sanctions that will foster improvements in a timely manner in failing schools and school districts;

(h) Benchmarks, including academic performance, leadership capacity and financial stability, which must be met for a district to be released from conservatorship; and

(i) Any other issues relating to failing schools and school districts deemed significant by the task force.

(8) In addition, the task force shall hear testimony from experts as well as compile data, study and report on the following matters:

(a) A history of school district consolidation in Mississippi, and a comparison of the history and outcomes of school district consolidation in other states in the nation;

(b) The feasibility of consolidation in Mississippi, including specifically examining parts of the state that may have multiple school districts in the same general area, or in parts of the state that have small or rural local school districts, and evaluating how effectively those school districts are currently using their resources;

(c) The financial impact of school district consolidation on the local school districts and the local economy to include millage rates, bond indebtedness, teacher pay and other issues;

(d) The effect of school district consolidation on student performance, the scope of the curriculum and the quality of instruction;

(e) The impact of school district consolidation on the identity of the school community, including administrators, faculty, staff, parents and students, as well as the larger community;

(f) The effect of school district consolidation on issues relating to school board and superintendent elections; and

(g) Any other issues relating to school district consolidation deemed significant by the task force.

(9) In addition, the task force shall hear testimony from experts as well as compile data, study and report on the following matters:

(a) The selection and governance structure of local school boards in Mississippi. The purpose of such study is to review current statutory provisions for the selection of school board members and the forms of governance of school boards and to consider optional methods of selection, composition and authority of school boards in Mississippi which may enhance and promote more efficient operations of school systems;

(b) The function of alternative school programs in Mississippi to help at-risk students to successfully re-enter the mainstream school setting through remediation and modified behavioral isolation in a highly structured positive environment:

(i) Review and consider coordinated services and plans and related studies done by or through existing state agencies and advisory, policy or research organizations to increase the accountability of alternative schools;

(ii) Review and consider the referral of students to alternative schools to correct and prevent disparate treatment of students and to ensure that proper procedural protections are in place to provide due process;

(iii) Consider objectives to facilitate appropriate services being provided to alternative schools in every school district;

(iv) Consider compliance with existing legal and policy requirements for individualized instructional plans, curricula addressing cultural and learning style differences, a rigorous workload, minimal noninstructional time, counseling for parents and students, clean, safe and functional facilities and staff with adequate credentials; and

(v) Consider correcting noncompliance by providing authority to the Mississippi Department of Education to create an accessible process by which parents could file complaints regarding denial of services to students that are guaranteed by law;

(c) Any other related issues determined by the task force.

(10) The State Department of Education shall provide appropriate staff to assist the task force with carrying out its duties. Before January 2, 2010, and annually thereafter, the task force shall submit to the Legislature and the Governor a written report of its findings and recommendations on measures to improve failing schools and school districts and enhancement of accountability measures and sanctions imposed on failing schools and school districts, and the other educational issues assigned under subsections (8) and (9). The task force shall continue in existence and shall conduct a periodic study to monitor and update its recommendations relative to failing school districts and other educational issues under its jurisdiction and make annual reports.

(11) This section shall stand repealed on July 1, 2012.

**SOURCES:** Laws, 2009, ch. 507, § 1, eff from and after July 1, 2009.

**Joint Legislative Committee Note** — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation changed “underperforming schools” to “failing schools” twice in subsection (10). The Joint Committee ratified the correction at its July 22, 2010 meeting.

**Editor’s Note** — Laws of 2008, ch. 384, § 1 provides:

“SECTION 1. (1) It is the intent of the Legislature and the expectation of each community in the state that all children receive a quality public education and attend a school that provides for this opportunity. The Legislature also recognizes that annual performance reports show that a significant number of schools and school districts consistently underperform and fail to meet the minimum performance measures that define success.

“(2) To assist the Legislature in shaping public policy to improve student outcomes and educational opportunities for all students in the state, there is established a task force to study and report on the status of underperforming schools and school districts in Mississippi, effectiveness measures for improvement of those schools and school districts, and enhancement of accountability and sanctions imposed on those schools and school districts.

“(3) The task force shall be composed of the following fifteen (15) members:

“(a) The Chairmen of the House and Senate Education Committees;

“(b) The Chairmen of the House and Senate Appropriations Committees;

“(c) The State Superintendent of Public Education;

“(d) The Director of the Office of Educational Accountability, State Department of Education;

“(e) A business leader in the state appointed by the Speaker of the House of Representatives from the Third Supreme Court District;



“(f) A business leader in the state appointed by the Lieutenant Governor from the First Supreme Court District;

“(g) A business leader in the state appointed by the Governor from the Second Supreme Court District;

“(h) The Director of the Mississippi Economic Council, or his designee;

“(i) The superintendent of a local public school district appointed by the Lieutenant Governor;

“(j) A member of a local public school board appointed by the Speaker of the House of Representatives;

“(k) A classroom teacher in a public school who has not less than five (5) years’ teaching experience in the public schools, appointed by the State Superintendent of Public Education;

“(l) A parent of a child who is a student in a public school, appointed by the Governor; and

“(m) A representative of the Governor’s Office.

“(4) Appointments to the task force must be made within thirty (30) days after the effective date of this act. Within fifteen (15) days after the expiration of the period for making appointments, on a day to be designated by the State Superintendent of Public Education, the task force shall meet and organize by selecting from its membership a chairman and a vice chairman. The vice chairman also must serve as secretary and be responsible for keeping all records of the task force. A majority of the membership of the task force shall constitute a quorum. In the selection of its officers and the adoption of rules, resolutions and reports, an affirmative vote of a majority of the task force shall be required. All members must be notified in writing of all meetings at least five (5) days before the date on which a meeting of the task force is scheduled.

“(5) The task force may contract for any professional services that it deems necessary to complete its work and shall tour at least two (2) underperforming schools and school districts in the state and two (2) Level 5 schools and school districts in the state. The Legislature shall appropriate sufficient funding to the State Department of Education for the contractual costs and travel associated with attending meetings and for the on-site visits to school districts.

“(6) Members of the task force who are not legislators, state officials or state employees shall be compensated at the per diem rate authorized by Section 25-3-69 and reimbursed in accordance with Section 25-3-41 for mileage and actual expenses incurred in the performance of their duties. Legislative members of the task force shall be paid from the contingent expense funds of their respective houses in the same manner as provided for committee meetings when the Legislature is not in session; however, no per diem or expense for attending meetings of the task force may be paid while the Legislature is in session. Task force members may not incur per diem, travel or other expenses unless previously authorized by vote at a meeting of the task force, which action must be recorded in the official minutes of the meeting. Nonlegislative members may be paid from any funds made available to the task force for that purpose.

“(7) The task force shall compile data, study and report on the following matters:

“(a) The factors used to determine and define both underperforming and Level 5 schools or school districts;

“(b) Current resources and assistance available to both underperforming and Level 5 schools or school districts;

“(c) Identification of additional assistance and resources which are needed in underperforming schools and school districts;

“(d) How effectively underperforming schools and school districts utilize available assistance and resources;

“(e) Current accountability measures and sanctions imposed on underperforming schools and school districts;

“(f) A comparison of how other states across the nation provide assistance and resources and determine accountability measures and sanctions for underperforming schools and school districts;

“(g) Practical and effective accountability measures and sanctions that will foster improvements in a timely manner in underperforming schools and school districts; and  
 “(h) Any other issues relating to underperforming schools and school districts deemed significant by the task force.

“(8) The State Department of Education shall provide appropriate staff to assist the task force with carrying out its duties. Before January 2, 2009, the task force shall submit to the Legislature and the Governor a written report of its findings and recommendations on measures to improve underperforming schools and school districts and enhancement of accountability measures and sanctions imposed on underperforming schools and school districts. Upon presentation of its report, the task force shall be dissolved.”

## CHAPTER 153

### Workforce Training and Education Consolidation Act

- SEC.  
 37-153-3. Legislative intent [Repealed effective July 1, 2019].  
 37-153-7. Mississippi Workforce Development Council created; duties; membership; staff and administration [Repealed effective July 1, 2019].  
 37-153-11. One-Stop Career Centers; staff and organization; duties [Repealed effective July 1, 2019].

### § 37-153-1. Short title [Repealed effective July 1, 2019].

**SOURCES:** Laws, 1994, ch. 585, § 1; Laws, 1996, ch. 521, § 7; Laws, 2004, ch. 572, § 1; reenacted without change, Laws, 2008, 1st Ex Sess, ch. 30, § 1; reenacted without change, Laws, 2010, ch. 559, § 1; reenacted without change, Laws, 2011, ch. 471, § 1; reenacted without change, Laws, 2012, ch. 515, § 1, eff from and after July 1, 2012.

**Editor’s Note** — Laws of 2004, ch. 572, § 60, as amended by Laws of 2008, 1st Ex Sess, ch. 30, § 58, as amended by Laws of 2010, ch. 559, § 58, as amended by Laws of 2011, ch. 471, § 59, and as amended by Laws of 2012, ch. 515, § 58, provides:

“SECTION 60. This act shall stand repealed on July 1, 2019.”

This section was reenacted without change by Laws of 2008, 1st Ex Sess, ch. 30, effective from and after July 1, 2008. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

This section was reenacted without change by Laws of 2010, ch. 559, § 1, effective from and after July 1, 2010. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

This section was reenacted without change by Laws of 2011, ch. 471, effective from and after July 1, 2011. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

This section was reenacted without change by Laws of 2012, ch. 515, effective from and after July 1, 2012. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

**Amendment Notes** — The 2008 amendment (ch. 30, 1st Ex Sess) reenacted the section without change.

The 2010 amendment reenacted the section without change.

The 2011 amendment reenacted the section without change.

The 2012 amendment was reenacted the section without change.

**§ 37-153-3. Legislative intent [Repealed effective July 1, 2019].**

It is the intent of the Legislature by the passage of Chapter 572, Laws of 2004, to establish one (1) comprehensive workforce development system in the State of Mississippi that is focused on achieving results, using resources efficiently and ensuring that workers and employers can easily access needed services. This system shall reflect a consolidation of the Mississippi Workforce Development Advisory Council and the Mississippi State Workforce Investment Act Board. The purpose of Chapter 572, Laws of 2004, is to provide workforce activities, through a statewide system that maximizes cooperation among state agencies, that increase the employment, retention and earnings of participants, and increase occupational skill attainment by participants and as a result, improve the quality of the workforce, reduce welfare dependency and enhance the productivity and competitiveness of the State of Mississippi.

**SOURCES:** Laws, 1994, ch. 585, § 2; Laws, 2004, ch. 572, § 2; reenacted without change, Laws, 2008, 1st Ex Sess, ch. 30, § 2; reenacted without change, Laws, 2010, ch. 559, § 2; reenacted and amended, Laws, 2011, ch. 471, § 2; reenacted without change, Laws, 2012, ch. 515, § 2, eff from and after July 1, 2012.

**Editor's Note** — Laws of 2004, ch. 572, § 60, as amended by Laws of 2008, 1st Ex Sess, ch. 30, § 58, as amended by Laws of 2010, ch. 559, § 58, as amended by Laws of 2011, ch. 471, § 59, and as amended by Laws of 2012, ch. 515, § 58, provides:

“SECTION 60. This act shall stand repealed on July 1, 2019.”

**Amendment Notes** — The 2008 amendment (ch. 30, 1st Ex Sess) reenacted the section without change.

The 2010 amendment reenacted the section without change.

The 2011 amendment reenacted and amended the section by substituting “Chapter 572, Laws of 2004” for “Laws, 2004, ch. 572” in the first and third sentences.

The 2012 amendment reenacted the section without change.

**§ 37-153-5. Definitions [Repealed effective July 1, 2019].**

**SOURCES:** Laws, 1994, ch. 585, § 3; Laws, 1996, ch. 521, § 8; Laws, 2004, ch. 572, § 3; reenacted without change, Laws, 2008, 1st Ex Sess, ch. 30, § 3; reenacted without change, Laws, 2010, ch. 559, § 3; reenacted without change, Laws, 2011, ch. 471, § 3; reenacted without change, Laws, 2012, ch. 515, § 3, eff from and after July 1, 2012.

**Editor's Note** — Laws of 2004, ch. 572, § 60, as amended by Laws of 2008, 1st Ex Sess, ch. 30, § 58, as amended by Laws of 2010, ch. 559, § 58, as amended by Laws of 2011, ch. 471, § 59, and as amended by Laws of 2012, ch. 515, § 58, provides:

“SECTION 60. This act shall stand repealed on July 1, 2019.”

This section was reenacted without change by Laws of 2008, 1st Ex Sess, ch. 30, effective from and after July 1, 2008. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

This section was reenacted without change by Laws of 2010, ch. 559, § 3, effective from and after July 1, 2010. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.



This section was reenacted without change by Laws of 2011, ch. 471, effective from and after July 1, 2011. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

This section was reenacted without change by Laws of 2012, ch. 515, effective from and after July 1, 2012. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

**Amendment Notes** — The 2008 amendment (ch. 30, 1st Ex Sess) reenacted the section without change.

The 2010 amendment reenacted the section without change.

The 2011 amendment reenacted the section without change.

The 2012 amendment reenacted the section without change.

**§ 37-153-7. Mississippi Workforce Development Council created; duties; membership; staff and administration [Repealed effective July 1, 2019].**

(1) There is created the Mississippi State Workforce Investment Board. The Mississippi State Workforce Investment Board shall be composed of thirty-nine (39) voting members, of which a majority shall be representatives of business and industry in accordance with the federal Workforce Investment Act.

(a) The Governor shall appoint the following members of the board to serve a term of four (4) years:

(i) The Executive Director of the Mississippi Association of Supervisors, or his/her designee;

(ii) The Executive Director of the Mississippi Municipal League;

(iii) One (1) elected mayor;

(iv) One (1) elected county supervisor;

(v) Two (2) representatives of labor organizations, who have been nominated by state labor federations;

(vi) Two (2) representatives of individuals and organizations that have experience with respect to youth activities;

(vii) One (1) representative of the Mississippi Association of Planning and Development Districts;

(viii) One (1) representative from each of the four (4) workforce areas in the state, who has been nominated by the community colleges in each respective area, with the consent of the elected county supervisors within the respective workforce area; and

(ix) Nineteen (19) representatives of business owners nominated by business and industry organizations, which may include representatives of the various planning and development districts in Mississippi.

(b) The following state officials shall be members of the board:

(i) The Executive Director of the Mississippi Department of Employment Security;

(ii) The Executive Director of the Department of Rehabilitation Services;

(iii) The State Superintendent of Public Education;

(iv) The Executive Director of the Mississippi Development Authority;

(v) The Executive Director of the Mississippi Department of Human Services;

(vi) The Executive Director of the State Board for Community and Junior Colleges.

(c) The Governor, or his designee, shall serve as a member.

(d) Four (4) legislators, who shall serve in a nonvoting capacity, two (2) of whom shall be appointed by the Lieutenant Governor from the membership of the Mississippi Senate, and two (2) of whom shall be appointed by the Speaker of the House from the membership of the Mississippi House of Representatives.

(e) The membership of the board shall reflect the diversity of the State of Mississippi.

(f) The Governor shall designate the Chairman of the Mississippi State Workforce Investment Board from among the voting members of the board, and a quorum of the board shall consist of a majority of the voting members of the board.

(g) The voting members of the board who are not state employees shall be entitled to reimbursement of their reasonable expenses incurred in carrying out their duties under this chapter, from any funds available for that purpose.

(h) The Mississippi Department of Employment Security shall be responsible for providing necessary administrative, clerical and budget support for the State Workforce Investment Board.

(2) The Mississippi Department of Employment Security shall establish limits on administrative costs for each portion of Mississippi's workforce development system consistent with the federal Workforce Investment Act or any future federal workforce legislation.

(3) The Mississippi State Workforce Investment Board shall have the following duties:

(a) Develop and submit to the Governor a strategic plan for an integrated state workforce development system that aligns resources and structures the system to more effectively and efficiently meet the demands of Mississippi's employers and job seekers. This plan will comply with the federal Workforce Investment Act of 1998, as amended;

(b) Assist the Governor in the development and continuous improvement of the statewide workforce investment system that shall include:

(i) Development of linkages in order to assure coordination and nonduplication among programs and activities; and

(ii) Review local workforce development plans that reflect the use of funds from the federal Workforce Investment Act, Wagner-Peyser Act and the Mississippi Comprehensive Workforce Training and Education Consolidation Act;

(c) Recommend the designation of local workforce investment areas as required in Section 116 of the federal Workforce Investment Act of 1998. There shall be four (4) workforce investment areas that are generally aligned with the planning and development district structure in Mississippi. Plan-

ning and development districts will serve as the fiscal agents to manage Workforce Investment Act funds, oversee and support the local workforce investment boards aligned with the area and the local programs and activities as delivered by the one-stop employment and training system. The planning and development districts will perform this function through the provisions of the county cooperative service districts created under Sections 19-3-101 through 19-3-115; however, planning and development districts currently performing this function under the Interlocal Cooperation Act of 1974, Sections 17-13-1 through 17-13-17, may continue to do so;

(d) Assist the Governor in the development of an allocation formula for the distribution of funds for adult employment and training activities and youth activities to local workforce investment areas;

(e) Recommend comprehensive, results-oriented measures that shall be applied to all Mississippi's workforce development system programs;

(f) Assist the Governor in the establishment and management of a one-stop employment and training system conforming to the requirements of the federal Workforce Investment Act of 1998, as amended, recommending policy for implementing the Governor's approved plan for employment and training activities and services within the state. In developing this one-stop career operating system, the Mississippi State Workforce Investment Board, in conjunction with local workforce investment boards, shall:

(i) Design broad guidelines for the delivery of workforce development programs;

(ii) Identify all existing delivery agencies and other resources;

(iii) Define appropriate roles of the various agencies to include an analysis of service providers' strengths and weaknesses;

(iv) Determine the best way to utilize the various agencies to deliver services to recipients; and

(v) Develop a financial plan to support the delivery system that shall, at a minimum, include an accountability system;

(g) Assist the Governor in reducing duplication of services by urging the local workforce investment boards to designate the local community/junior college as the operator of the WIN Job Center. Incentive grants of Two Hundred Thousand Dollars (\$200,000.00) from federal Workforce Investment Act funds may be awarded to the local workforce boards where the community/junior college district is designated as the WIN Job Center. These grants must be provided to the community and junior colleges for the extraordinary costs of coordinating with the Workforce Investment Act, advanced technology centers and advanced skills centers. In no case shall these funds be used to supplant state resources being used for operation of workforce development programs;

(h) To provide authority, in accordance with any executive order of the Governor, for developing the necessary collaboration among state agencies at the highest level for accomplishing the purposes of this chapter;

(i) To monitor the effectiveness of the workforce development centers and WIN job centers;



(j) To advise the Governor, public schools, community/junior colleges and institutions of higher learning on effective school-to-work transition policies and programs that link students moving from high school to higher education and students moving between community colleges and four-year institutions in pursuit of academic and technical skills training;

(k) To work with industry to identify barriers that inhibit the delivery of quality workforce education and the responsiveness of educational institutions to the needs of industry;

(l) To provide periodic assessments on effectiveness and results of the overall Mississippi comprehensive workforce development system and district councils; and

(m) To assist the Governor in carrying out any other responsibility required by the federal Workforce Investment Act of 1998, as amended.

(4) The Mississippi State Workforce Investment Board shall coordinate all training programs and funds in the State of Mississippi.

Each state agency director responsible for workforce training activities shall advise the Mississippi State Workforce Investment Board of appropriate federal and state requirements. Each such state agency director shall remain responsible for the actions of his agency; however, each state agency and director shall work cooperatively, and shall be individually and collectively responsible to the Governor for the successful implementation of the statewide workforce investment system. The Governor, as the Chief Executive Officer of the state, shall have complete authority to enforce cooperation among all entities within the state that utilize federal or state funding for the conduct of workforce development activities.

**SOURCES:** Laws, 1994, ch. 585, § 4; Laws, 1996, ch. 521, § 9; Laws, 2002, ch. 329, § 4; Laws, 2004, ch. 572, § 4; Laws, 2005, ch. 391, § 2; reenacted without change, Laws, 2008, 1st Ex Sess, ch. 30, § 4; reenacted without change, Laws, 2010, ch. 559, § 4; reenacted without change, Laws, 2011, ch. 471, § 4; reenacted without change, Laws, 2012, ch. 515, § 4, eff from and after July 1, 2012.

**Editor's Note** — Laws of 2004, ch. 572, § 60, as amended by Laws of 2008, 1st Ex Sess, ch. 30, § 58, as amended by Laws of 2010, ch. 559, § 58, as amended by Laws of 2011, ch. 471, § 59, and as amended by Laws of 2012, ch. 515, § 58, provides: "SECTION 60. This act shall stand repealed on July 1, 2019."

Section 37-4-5 provides that the terms "Junior College Commission" and "State Board for Community and Junior Colleges," wherever they appear in the laws of Mississippi, shall mean the "Mississippi Community College Board."

**Amendment Notes** — The 2008 amendment (ch. 30, 1st Ex Sess) reenacted the section without change.

The 2010 amendment reenacted the section without change.

The 2011 amendment reenacted the section without change.

The 2012 amendment reenacted and amended the section by making minor stylistic changes.

**§ 37-153-9. District work force development councils created; duties; membership [Repealed effective July 1, 2019].**

**SOURCES:** Laws, 1994, ch. 585, § 5; Laws, 1996, ch. 521, § 10; Laws, 2004, ch. 572, § 5; reenacted without change, Laws, 2008, 1st Ex Sess, ch. 30, § 5; reenacted without change, Laws, 2010, ch. 559, § 5; reenacted without change, Laws, 2011, ch. 471, § 5; reenacted without change, Laws, 2012, ch. 515, § 5, eff from and after July 1, 2012.

**Editor's Note** — Laws of 2004, ch. 572, § 60, as amended by Laws of 2008, 1st Ex Sess, ch. 30, § 58, as amended by Laws of 2010, ch. 559, § 58, as amended by Laws of 2011, ch. 471, § 59, and as amended by Laws of 2012, ch. 515, § 58, provides:

“SECTION 60. This act shall stand repealed on July 1, 2019.”

This section was reenacted without change by Laws of 2008, 1st Ex Sess, ch. 30, effective from and after July 1, 2008. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

This section was reenacted without change by Laws of 2010, ch. 559, § 5, effective from and after July 1, 2010. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

This section was reenacted without change by Laws of 2011, ch. 471, effective from and after July 1, 2011. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

This section was reenacted without change by Laws of 2012, ch. 515, effective from and after July 1, 2012. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

**Amendment Notes** — The 2008 amendment (ch. 30, 1st Ex Sess) reenacted the section without change.

The 2010 amendment reenacted the section without change.

The 2011 amendment reenacted the section without change.

The 2012 amendment reenacted the section without change.

**§ 37-153-11. One-Stop Career Centers; staff and organization; duties [Repealed effective July 1, 2019].**

(1) There are created workforce development centers to provide assessment, training and placement services to individuals needing retraining, training and upgrading for small business and local industry. Each workforce development center shall be affiliated with a separate public community or junior college district.

(2) Each workforce development center shall be staffed and organized locally by the affiliated community college. The workforce development center shall serve as staff to the affiliated district council.

(3) Each workforce development center, working in concert with its affiliated district council, shall offer and arrange services to accomplish the purposes of this chapter, including, but not limited to, the following:

(a) For individuals needing training and retraining:

(i) Recruiting, assessing, counseling and referring to training or jobs;

(ii) Preemployment training for those with no experience in the private enterprise system;

- (iii) Basic literacy skills training and high school equivalency education;
- (iv) Vocational and technical training, full-time or part-time; and
- (v) Short-term skills training for educationally and economically disadvantaged adults in cooperation with federally established employment and training programs;
- (b) For specific small businesses, industries or firms within the district:
  - (i) Job analysis, testing and curriculum development;
  - (ii) Development of specific long-range training plans;
  - (iii) Industry or firm-related preemployment training;
  - (iv) Workplace basic skills and literacy training;
  - (v) Customized skills training;
  - (vi) Assistance in developing the capacity for total quality management training;
  - (vii) Technology transfer information and referral services to business of local applications of new research in cooperation with the University Research Center, the state's universities and other laboratories; and
  - (viii) Development of business plans;
- (c) For public schools within the district technical assistance to secondary schools in curriculum coordination, development of tech prep programs, instructional development and resource coordination; and
- (d) For economic development, a local forum and resource center for all local industrial development groups to meet and promote regional economic development.

(4) Each workforce development center shall compile and make accessible to the Mississippi Workforce Investment Board necessary information for use in evaluating outcomes of its efforts and in improving the quality of programs at each community college, and shall include information on literacy initiatives. Each workforce development center shall, through an interagency management information system, maintain records on new small businesses, placement, length of time on the job after placement and wage rates of those placed in a form containing such information as established by the state council.

(5) The Mississippi Community College Board is authorized to designate one or more workforce development centers at the request of affiliated community or junior colleges to provide skills training to individuals to enhance their ability to be employed in the motion picture industry in this state.

**SOURCES:** Laws, 1994, ch. 585, § 6; Laws, 1996, ch. 521, § 11; Laws, 2004, ch. 572, § 6; reenacted without change, Laws, 2008, 1st Ex Sess, ch. 30, § 6; reenacted without change, Laws, 2010, ch. 559, § 6; reenacted without change, Laws, 2011, ch. 471, § 6; reenacted without change, Laws, 2012, ch. 515, § 6; Laws, 2012, ch. 568, § 1, eff from and after July 1, 2012.

**Joint Legislative Committee Note** — Section 6 of ch. 515, Laws of 2012, effective from and after July 1, 2012 (approved May 1, 2012), amended this section. Section 1 of ch. 568, Laws of 2012, effective July 1, 2012 (approved May 23, 2012), amended this



section. As set out above, this section reflects the language of Section 1 of ch. 568, Laws of 2012, pursuant to Section 1-3-79, which provides that whenever the same section of law is amended by different bills during the same legislative session, and the effective dates of the amendments are the same, the amendment with the latest approval date supersedes all other amendments to the same section approved on an earlier date.

**Editor's Note** — Laws of 2004, ch. 572, § 60, as amended by Laws of 2008, 1st Ex Sess, ch. 30, § 58, as amended by Laws of 2010, ch. 559, § 58, as amended by Laws of 2011, ch. 471, § 59, and as amended by Laws of 2012, ch. 515, § 58, provides:

“SECTION 60. This act shall stand repealed on July 1, 2019.”

**Amendment Notes** — The 2008 amendment (ch. 30, 1st Ex Sess) reenacted the section without change.

The 2010 amendment reenacted the section without change.

The 2011 amendment reenacted the section without change.

The first 2012 amendment (ch. 515), reenacted the section without change.

The second 2012 (ch. 568), amendment added (5).

### **§ 37-153-13. State Board for Community and Junior Colleges to be primary support agency for the career centers and district councils; powers [Repealed effective July 1, 2019].**

**SOURCES:** Laws, 1994, ch. 585, § 7; Laws, 1996, ch. 521, § 12; Laws, 2004, ch. 572, § 7; reenacted without change, Laws, 2008, 1st Ex Sess, ch. 30, § 7; reenacted without change, Laws, 2010, ch. 559, § 7; reenacted without change, Laws, 2011, ch. 471, § 7, eff from and after July 1, 2011; reenacted without change, Laws, 2012, ch. 515, § 7, eff from and after July 1, 2012.

**Editor's Note** — Laws of 2004, ch. 572, § 60, as amended by Laws of 2008, 1st Ex Sess, ch. 30, § 58, as amended by Laws of 2010, ch. 559, § 58, as amended by Laws of 2011, ch. 471, § 59, and as amended by Laws of 2012, ch. 515, § 58, provides:

“SECTION 60. This act shall stand repealed on July 1, 2019.”

This section was reenacted without change by Laws of 2008, 1st Ex Sess, ch. 30, effective from and after July 1, 2008. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

This section was reenacted without change by Laws of 2010, ch. 559, § 7, effective from and after July 1, 2010. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

This section was reenacted without change by Laws of 2011, ch. 471, effective from and after July 1, 2011. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Section 37-4-5 provides that the terms “Junior College Commission” and “State Board for Community and Junior Colleges,” wherever they appear in the laws of Mississippi, shall mean the “Mississippi Community College Board.”

This section was reenacted without change by Laws of 2012, ch. 515, effective from and after July 1, 2012. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

**Amendment Notes** — The 2008 amendment (ch. 30, 1st Ex Sess) reenacted the section without change.

The 2010 amendment reenacted the section without change.

The 2011 amendment reenacted the section without change.

The 2012 amendment reenacted the section without change.

## CHAPTER 154

## State Longitudinal Data System [Effective July 1, 2013]

SEC.

- 37-154-1. State Longitudinal Data System (SLDS); establishment [Effective July 1, 2013].
- 37-154-3. Governance [Effective July 1, 2013].

**§ 37-154-1. State Longitudinal Data System (SLDS); establishment [Effective July 1, 2013].**

(1) To improve quality of life, education and employment opportunities for all citizens, the appropriate agencies of the State of Mississippi listed in subsection (2) of this section shall develop and maintain a State Longitudinal Data System (SLDS). The system will allow stakeholders and policymakers access data on state residents from birth to the workforce to drive accountability and investment decisions. The system will include data from multiple state agencies and entities. The system will provide decision makers a tool to develop policies to support objectives, including, but not limited to:

- (a) Enabling Mississippians to secure and retain employment and receive better pay after completing training or postsecondary degrees;
- (b) Enabling Mississippi to meet the education and job skill demands of business and industry;
- (c) Developing an early warning system, which allows the state to intervene early, improving the graduation rates in high school and college;
- (d) Identifying teachers, teaching methods and programs that lead to positive student outcomes; and
- (e) Encouraging the sharing of electronic data across educational and other entities.

(2) Individual state agencies and state entities will send data from their internal system to the Statewide Longitudinal Data System. These initial agencies and entities shall provide data to the SLDS under the provisions developed by the SLDS Governing Board established in Section 37-154-3:

- (a) Mississippi Department of Education (MDE);
- (b) State Board for Community and Junior Colleges (SBCJC);
- (c) Board of Trustees of State Institutions of Higher Learning (IHL);
- (d) State Workforce Investment Board (SWIB);
- (e) Mississippi Department of Employment Security (MDES);
- (f) Mississippi Department of Human Services (MDHS); and
- (g) State Early Childhood Advisory Council (SECAC).

Any agencies or entities added to SLDS shall provide a representative to the SLDS Governing Board and be governed in the same manner as the initial agencies and entities.

(3) The system will be based on an existing system currently housed, developed and maintained by the National Strategic Planning and Analysis Research Center (nSPARC) at Mississippi State University. The initial agen-

cies participating in the SLDS Governing Board and nSPARC have worked collaboratively to secure funding through the United States Department of Education to expand and enhance the capacity of the state's existing technology infrastructure for the purposes of developing the SLDS. The State Data Center, operated by the Mississippi Department of Information Technology Services (ITS), will provide application hosting services for the SLDS until such time the SLDS Governing Board approves that another entity should perform these services.

**SOURCES:** Laws, 2011, ch. 407, § 1, eff from and after July 1, 2013.

**Editor's Note** — Section 37-4-5 provides that the terms “Junior College Commission” and “State Board for Community and Junior Colleges,” wherever they appear in the laws of Mississippi, shall mean the “Mississippi Community College Board.”

### § 37-154-3. Governance [Effective July 1, 2013].

(1) The SLDS will be governed by a SLDS Governing Board (the board), which shall be composed of a representative from each agency or entity providing data to the system. Each agency or entity will appoint their representative to sit on the Governing Board. For the two (2) years following July 1, 2013, the State Workforce Investment Board Chair will also serve as Chair of the SLDS Governing Board. In subsequent years, the SLDS Governing Board will elect a chair from among its members. The Chair of the SLDS Governing Board will serve a two-year term.

(2) The SLDS Governing Board shall develop and promulgate all rules and regulations governing the activities of the SLDS in accordance with applicable state and federal laws. The board is authorized to contract with a third party to manage and maintain the system and to insure the policies and procedures developed by the board are enforced.

(3) The SLDS Governing Board shall be responsible for, but not limited to, the following objectives:

(a) Identifying critical research and policy questions that need to be addressed by education (P-20) and workforce programs;

(b) Identifying reports and other information that should be available to education and workforce entities and other public stakeholders;

(c) Developing a funding mechanism for sustaining the system after it is developed;

(d) Defining and maintaining standards for privacy, confidentiality and security of data; and

(e) Performing other advisory functions that are necessary for the successful continuation and management of the longitudinal data system.

(4) Nothing in this chapter shall prevent an individual agency or entity from maintaining control of their agency's individual data.

(5) All data provided to the SLDS shall be provided in accordance with all local, state and federal laws governing the protection and sharing of such data.



SOURCES: Laws, 2011, ch. 407, § 2, eff from and after July 1, 2013.

CHAPTER 155

College Savings Plans of Mississippi

ARTICLE 1.

MISSISSIPPI PREPAID AFFORDABLE COLLEGE TUITION (MPACT) PROGRAM.

§ 37-155-9. Powers of the board of directors.

**Editor’s Note** — Section 37-4-5 provides that the terms “Junior College Commission” and “State Board for Community and Junior Colleges,” wherever they appear in the laws of Mississippi, shall mean the “Mississippi Community College Board.”

ARTICLE 3.

MISSISSIPPI AFFORDABLE COLLEGE SAVINGS (MACS) PROGRAM.

§ 37-155-117. Board to provide annual accounting statements.

**Editor’s Note** — Section 37-4-5 provides that the terms “Junior College Commission” and “State Board for Community and Junior Colleges,” wherever they appear in the laws of Mississippi, shall mean the “Mississippi Community College Board.”

CHAPTER 159

Mississippi Teacher Scholarship Programs

Mississippi Critical Needs Teacher Scholarship Program .....	37-159-1
Mississippi Dyslexia Education Scholarship Program .....	37-159-51

MISSISSIPPI CRITICAL NEEDS TEACHER SCHOLARSHIP PROGRAM

SEC.	
37-159-3.	Critical Needs Teacher Scholarship Program; eligibility; employment requirements; liability for failure to complete studies; deposit of funds.
37-159-11.	Mississippi Employer-Assisted Housing Teacher Program; service to geographical areas short of teachers; eligibility for participation; failure to comply with commitment.
37-159-15.	Repealed.
37-159-17.	Mississippi Critical Teacher Shortage Fund; establishment; deposit and use of funds.

§ 37-159-1. Short title.

**Editor’s Note** — Laws of 2010, ch. 484, § 1, as amended by Laws of 2011, ch. 512, § 2, provides:  
“SECTION 1.(1) The Task Force to Study Strategies for Solving the Current Teacher Shortage in Mississippi is created to study and make recommendations to the Governor

and the Legislature regarding teacher attrition, retention and growth in our state. The task force shall study and make recommendations on the following key areas:

- “(a) Teacher salaries;
- “(b) Future educators;
- “(c) Working conditions of educators;
- “(d) Relevant professional development for educators;
- “(e) Adequate and equitable resources and support for educators;
- “(f) Safety and respect in the schools; and
- “(g) Parental and community involvement in the schools.
- “(h) The teacher salary scale under the Mississippi Adequate Education Program;
- “(i) Step increases and annual increments under the teacher salary scale;
- “(j) Merit pay for teachers;
- “(k) Teacher pay for failing schools;
- “(l) Local supplements to teacher salaries;
- “(m) Nonadequate education program funded teachers; and
- “(n) Adequate and equitable resources and support for teacher salaries.
- “(2) Members of the task force shall be composed of the following:
  - “(a) The State Superintendent of Public Education, or his designee;
  - “(b) One (1) person appointed by the Governor;
  - “(c) The Chairmen of the Senate and House Education Committees;
  - “(d) The Chairmen of the Senate and House Universities and Colleges Committees;
  - “(e) The Chairmen of the Senate and House Appropriations Committees;
  - “(f) Three (3) classroom teachers appointed by the State Board of Education, one (1) to be an elementary teacher, one (1) to be a middle school teacher and one (1) to be a high school teacher;
  - “(g) One (1) assistant teacher appointed by the Mississippi Association of Educators;
  - “(h) One (1) principal appointed by the State Board of Education;
  - “(i) One (1) local school superintendent appointed by the Mississippi Association of School Superintendents;
  - “(j) Two (2) Deans of the College of Education of a Mississippi public or private university appointed by the Board of Trustees of State Institutions of Higher Learning;
  - “(k) The Commissioner of Higher Education, or his designee; and;
  - “(l) The Executive Director of the State Board for Community and Junior Colleges, or his designee.
- “Appointments to the task force shall be made within thirty (30) days after the effective date of this act. The task force shall hold its first meeting not later than August 1, 2010, with the date, time and location of the meeting to be designated by the State Superintendent of Education. At the first meeting the task force shall elect from among its membership a chairman, vice chairman and any other officers determined to be necessary, who shall organize the task force for business and determine the date and locations of subsequent meetings.
- “Members of the task force shall serve without compensation for their services, but may be reimbursed for necessary expense in attending to the actual business of the task force from any available funds, as provided by law. Legislative members shall be reimbursed from the contingent expense fund of their respective house, but only with the specific approval of the Rules Committee of the respective house. The task force, by approval of a majority of its membership, may accept funds that may be donated or provided in the form of grants from public or private sources.
- “(3) Any department, agency or court of this state, at the request of the chairman of the task force, shall provide staff and other support necessary for the task force to perform its duties.
- “(4) Upon presentation of its report to the Governor and the 2013 Regular Session of the Legislature, the task force shall be dissolved.”

**§ 37-159-3. Critical Needs Teacher Scholarship Program; eligibility; employment requirements; liability for failure to complete studies; deposit of funds.**

(1) There is established the "Critical Needs Teacher Scholarship Program," the purpose of which is to attract qualified teachers to those geographical areas of the state and those subject areas of the curriculum where there exists a critical shortage of teachers by awarding full scholarships to persons declaring an intention to serve in the teaching field who actually render service to the state while possessing an appropriate teaching license.

(2) Any individual who is enrolled in or accepted for enrollment at a teacher education program approved by the State Board of Education or other program at a baccalaureate degree-granting institution of higher learning in the State of Mississippi and has a passing score on the Praxis I Basic Skills Test who expresses in writing an intention to teach in a geographical area of the state or a subject area of the public school curriculum in which there exists a critical shortage of teachers, as designated by the State Board of Education, shall be eligible for a financial scholarship to be applied toward the costs of the individual's college education. The annual amount of the award shall be equal to the total cost for tuition, room and meals, books, materials and fees at the college or university in which the student is enrolled, not to exceed an amount equal to the highest total cost of tuition, room and meals, books, materials and fees assessed by a state institution of higher learning during that school year. Awards made to nonresidents of the state shall not include any amount assessed by the college or university for out-of-state tuition.

(3) Awards granted under the Critical Needs Teacher Scholarship Program shall be available to both full-time and part-time students. Students enrolling on a full-time basis may receive a maximum of two (2) annual awards. The maximum number of awards that may be made to students attending school on a part-time basis, and the maximum time period for part-time students to complete the number of academic hours necessary to obtain a baccalaureate degree in education, shall be established by rules and regulations jointly promulgated by the Board of Trustees of State Institutions of Higher Learning and the State Board of Education. Critical Needs Teacher Scholarships shall not be based upon an applicant's eligibility for financial aid.

(4) Awards granted under the Critical Needs Teacher Scholarship Program shall be made available to nontraditional licensed teachers showing a documented need for student loan repayment and employed in those school districts designated by the State Department of Education as a geographical area of the state or in a subject area of the curriculum in which there is a critical shortage of teachers. The maximum annual amount of this repayment should not exceed Three Thousand Dollars (\$3,000.00) and the maximum time period for repayment shall be no more than four (4) years.

(5) Except in those cases where employment positions may not be available upon completion of licensure requirements, at the beginning of the first school year in which a recipient of a Critical Needs Teacher Scholarship is



eligible for employment as a licensed teacher or a nontraditional teacher intern pursuant to Section 37-3-2(6) (b), that person shall begin to render service as a licensed teacher or nontraditional teacher intern in a public school district in a geographical area of the state or a subject area of the curriculum where there is a critical shortage of teachers, as approved by the State Board of Education. Any person who received two (2) annual awards, or who received fewer than two (2) annual awards, or the equivalent of two (2) annual awards, shall render one (1) year's service as a licensed teacher for each year that the person received a full-time student scholarship.

(6) Any person failing to complete a program of study which will enable that person to become a licensed teacher or nontraditional teacher intern under Section 37-3-2(6) (b), as the case may be, shall become liable immediately to the Board of Trustees of State Institutions of Higher Learning for the sum of all Critical Needs Teacher Scholarship awards made to that person, plus interest accruing at the current Stafford Loan rate at the time the person abrogates his participation in the program. Any person failing to complete his teaching obligation, as required under subsection (4) of this section, shall become liable immediately to the board for the sum of all scholarship awards made to that person less the corresponding amount of any awards for which service has been rendered, plus interest accruing at the current Stafford Loan rate at the time the person discontinues his service, except in the case of a deferral of debt for cause by the State Board of Education when there is no employment position immediately available upon a teacher's completion of licensure requirements. After the period of such deferral, such person shall begin or resume teaching duties as required under subsection (4) or shall become liable to the board under this subsection. If a claim for payment under this subsection is placed in the hands of an attorney for collection, the obligor shall be liable for an additional amount equal to a reasonable attorney's fee.

(7) The obligations made by the recipient of a Critical Needs Teacher Scholarship award shall not be voidable by reason of the age of the student at the time of receiving the scholarship.

(8) Any student who, prior to July 1, 2003, has been accepted into the Critical Needs Teacher Scholarship Program under the authority of Section 37-159-3(4) shall be allowed to begin or remain in the scholar loan program based upon the prescribed guidelines of the State Department of Education, and conversion for those students with fewer than four (4) annual awards shall be based on one (1) year of service in either (a) a geographic area of the state in which there exists a critical shortage of teachers as determined by the State Board of Education, or (b) a subject area of the curriculum in the public schools in which there exists a critical shortage of teachers as determined by the State Board of Education, for each year a loan was received by the student. For those students that receive the equivalent of four (4) annual awards, such students shall render three (3) years of service.

(9) The Board of Trustees of State Institutions of Higher Learning and the State Board of Education shall jointly promulgate rules and regulations necessary for the proper administration of the Critical Needs Teacher Schol-

arship Program. The Board of Trustees of State Institutions of Higher Learning shall be the administering agency of the program.

(10) If insufficient funds are available to fully fund scholarship awards to all eligible students, the Board of Trustees of State Institutions of Higher Learning shall make the awards to first-time students on a first-come, first-served basis; however, priority consideration shall be given to persons previously receiving awards under the Critical Needs Teacher Scholarship Program.

(11) All funds received by the Board of Trustees of State Institutions of Higher Learning from the repayment of scholarship awards by program participants shall be deposited in the Consolidated Revolving Loan Fund in accordance with Section 37-143-19.

(12) Where local school districts exhibit financial need, the State Department of Education may, subject to the availability of funds specifically appropriated therefor by the Legislature, provide financial assistance for the recruitment of certified teachers in an amount not to exceed Seventy-five Thousand Dollars (\$75,000.00), annually.

**SOURCES:** Laws, 1998, ch. 544, § 2; Laws, 2002, ch. 587, § 3; Laws, 2003, ch. 337, § 1; Laws, 2004, ch. 409, § 3; Laws, 2011, ch. 442, § 18; Laws, 2012, ch. 315, § 1, eff from and after passage (approved Apr. 3, 2012).

**Amendment Notes** — The 2011 amendment deleted former (12), (12)(a) through (f) which read: “The State Department of Education shall compile and report, in consultation with the Board of Trustees of State Institutions of Higher Learning, an annual report with findings and recommendations to the legislative committees on education by December 1, 2003, and annually thereafter, on the following: (a) The number of participants in the Critical Needs Teacher Scholarship Program, by institution and by freshman, sophomore, junior and senior level; (b) The number of nontraditional teacher license program participants; (c) The number of individuals who completed the Critical Needs Teacher Scholarship Program and the school district in which they are employed; (d) The number of individuals who are in default of their obligation under the Critical Needs Teacher Scholarship Program and the status of their obligation; (e) The number of participants in the program who have successfully completed the Praxis examination in their junior year; and (f) The number of noneducation majors participating in the program.”

The 2012 amendment substituted “Consolidated Revolving Loan Fund in accordance with Section 37-143-19” for “Mississippi Critical Teacher Shortage Fund” at the end of (11).

**§ 37-159-11. Mississippi Employer-Assisted Housing Teacher Program; service to geographical areas short of teachers; eligibility for participation; failure to comply with commitment.**

(1) There is established the Mississippi Employer-Assisted Housing Teacher Program, which shall be a special home loan program for eligible licensed teachers who render service to the state in a geographical area of the state where there exists a critical shortage of teachers, as designated by the State Board of Education. The home loan program shall be administered by the

State Department of Education in conjunction with the Federal National Mortgage Association (Fannie Mae). The department may contract with one or more public or private entities to provide assistance in implementing and administering the program. The State Board of Education shall adopt rules and regulations regarding the implementation and administration of the program.

(2) Participation in the loan program shall be available to any licensed teacher who renders service in a geographical area of the state where there exists a critical shortage of teachers, as designated by the State Board of Education. Any person who receives a loan under the program shall be required to purchase a house and reside in a county in which the school district for which the teacher is rendering service, or any portion of the school district, is located. The maximum amount of a loan that may be made under the program to any person shall be Six Thousand Dollars (\$6,000.00).

(3) Any loan made under the program to a person who actually renders service as a teacher in a geographical area of the state where there exists a critical shortage of teachers, as designated by the State Board of Education, shall be converted to an interest-free grant on the basis of one (1) year's service for one-third ( $\frac{1}{3}$ ) of the amount of the loan. Any person who does not render three (3) years' service as a teacher in a geographical area of the state where there exists a critical shortage of teachers, as designated by the State Board of Education, shall be liable to the State Department of Education for one-third ( $\frac{1}{3}$ ) of the amount of the loan for each year that he does not render such service, plus interest accruing at the current Stafford Loan rate at the time the person discontinues his service. If a claim for repayment under this subsection is placed in the hands of an attorney for collection, the obligor shall be liable for an additional amount equal to a reasonable attorney's fee.

(4) All funds received by the State Department of Education as repayment of loans by program participants shall be deposited in the Mississippi Critical Teacher Shortage Fund.

**SOURCES:** Laws, 1998, ch. 544, § 14; Laws, 2000, ch. 321, § 1; Laws, 2001, ch. 543, § 1; Laws, 2004, ch. 369, § 1; reenacted and amended, Laws, 2009, ch. 345, § 30, eff from and after June 30, 2009.

**Amendment Notes** — The 2009 amendment reenacted and amended the section by deleting former (5), which provided that the section was to stand repealed on July 1, 2009.

## § 37-159-15. Repealed.

Repealed by Laws, 2011, ch. 442, § 20, effective July 1, 2011.

§ 37-159-15. [Laws, 1998, ch. 544, § 16, eff from and after passage (approved April 13, 1998).]

**Editor's Note** — Former § 37-159-15 required an annual assessment of the impact of the teacher recruitment incentive programs.



**§ 37-159-17. Mississippi Critical Teacher Shortage Fund; establishment; deposit and use of funds.**

There is established in the State Treasury a special fund to be designated the “Mississippi Critical Teacher Shortage Fund,” into which shall be deposited those funds appropriated by the Legislature, and any other funds that may be made available, for the purpose of implementing the programs established under Sections 37-159-5, 37-9-77, 37-3-91 and 37-159-9 through 37-159-13. Money in the fund at the end of a fiscal year shall not lapse into the General Fund, and interest earned on any amounts deposited into the fund shall be credited to the special fund.

**SOURCES:** Laws, 1998, ch. 544, § 17; Laws, 2012, ch. 315, § 2, eff from and after passage (approved Apr. 3, 2012.)

**Amendment Notes** — The 2012 amendment deleted “37-159-3” preceding “37-159-5” in the first sentence.

**MISSISSIPPI DYSLEXIA EDUCATION SCHOLARSHIP PROGRAM**

SEC.

- 37-159-51. Mississippi Dyslexia Education Scholarship Program established; purpose; eligibility; scholarship amount; terms of service; liability for failure to complete studies.
- 37-159-53. Administration of Mississippi Dyslexia Education Scholarship Program; maximum number of students selected annually for scholarships.

**§ 37-159-51. Mississippi Dyslexia Education Scholarship Program established; purpose; eligibility; scholarship amount; terms of service; liability for failure to complete studies.**

(1) There is established the Mississippi Dyslexia Education Scholarship Program for the purpose of identifying and recruiting qualified university and college students from the state for schooling in education with a focus on dyslexia therapy.

(2) The receipt of a scholarship under the program shall be solely limited to those students who are enrolled in or who have been accepted for enrollment into a master’s degree program of study for dyslexia therapy at any public or private institution of higher learning within the State of Mississippi at the time an application for scholarship is filed with the Board of Trustees of State Institutions of Higher Learning.

(3) The annual amount of the scholarship award shall be equal to the total cost for tuition, materials and fees at the college or university in which the student is enrolled. Awards made to nonresidents of the state shall not include any amount assessed by the college or university for out-of-state tuition.

(4) Upon completion of the master’s program and licensure requirements, if the scholarship recipient has not been previously licensed by the State Department of Education, shall render service as licensed teacher of dyslexia

therapy in a public school district in the state. Any person who received two (2) annual awards, or who received fewer than two (2) annual awards, or the equivalent of two (2) annual awards, shall render one (1) year's services as a licensed teacher for each year that the person received a scholarship award.

(5)(a) Any person failing to complete a program of study which will enable that person to obtain a master's degree in dyslexia therapy shall become liable immediately to the Board of Trustees of State Institutions of Higher Learning for the sum of all Dyslexia Education Scholarship awards made to the person, plus interest accruing at the current Stafford Loan rate at the time the person abrogates his or her participation in the program.

(b) Any person failing to complete his or her teaching obligation, as required under subsection (4) of this section, shall become liable immediately to the board for the sum of all scholarship awards made to the person less the corresponding amount of any awards for which service has been rendered, plus interest accruing at the current Stafford Loan rate at the time the person discontinues his or her service.

(6) The Board of Trustees of State Institutions of Higher Learning shall prepare and submit a report to the Legislature by January 1, 2015, outlining in detail the number of participants who have received scholarship funds under the program, the record of service provided by those recipients as they transition out of the degree program into the public school districts of this state, and the projection for expanding the program to include more participants annually as determined by the need for such qualified professional in the public school setting. Additionally, the report shall include a summary of allocations and expenditures for the administration of the program and the total amount of funds issued to recipients of scholarships from the inception of the program until such time as the report has been prepared and submitted to the Legislature.

**SOURCES:** Laws, 2012, ch. 562, § 1, eff from and after July 1, 2012.

### **§ 37-159-53. Administration of Mississippi Dyslexia Education Scholarship Program; maximum number of students selected annually for scholarships.**

(1) The Mississippi Dyslexia Education Scholarship Program shall be administered in the same manner as the Critical Needs Teacher Scholarship Program, pursuant to Section 37-159-3, Mississippi Code of 1972, and shall be incorporated into the Critical Needs Teacher Scholarship Program for all purposes.

(2) Funding for the establishment and continued operation of the Mississippi Dyslexia Education Scholarship Program shall be administered by the Board of Trustees of State Institutions of Higher Learning through a special fund established within the Critical Needs Teacher Scholarship Program, subject to appropriation by the Legislature. The board may accept and receive monetary gifts and donations from any source, public or private, which such funds shall be deposited in the special fund for the benefit of the Mississippi

Dyslexia Education Scholarship Program with the Critical Needs Teacher Scholarship Program.

(3) No more than ten (10) students shall be selected annually to be admitted into the program for receipt of scholarship funds beginning with the 2013-2014 academic year.

**SOURCES:** Laws, 2012, ch. 562, § 2, eff from and after July 1, 2012.

## CHAPTER 160

### Teach for America Act

SEC.

- |           |   |
|-----------|---|
| 37-160-1. | Short title; purpose.   |
| 37-160-3. | Definitions.  |
| 37-160-5. | Award of grants to Teach For America-Delta to recruit new teachers; use of funds. |
| 37-160-7. | Grantee to provide written status report; report contents.                        |

#### § 37-160-1. Short title; purpose.

(1) This chapter shall be known and may be cited as the “Teach for America Act.”

(2) The following are the purposes of this chapter:

(a) To increase the number of highly accomplished recent college graduates teaching in school districts in geographical areas of the state which are economically challenged and in which there exists a critical shortage of teachers.

(b) To increase the number of recent college graduates teaching in the Teach For America partnering school districts on July 1, 2008, and to bring teachers from a nationally recruited corps of outstanding new teachers to additional communities in Mississippi by expanding the Teach For America program to additional school districts.

(c) To build a broader resource of talented and experienced future leaders in public education and education reform for the State of Mississippi.

(d) To authorize state funds to be used as matching funds by Teach For America, Inc., in order to raise additional funding to cover the programmatic costs of recruiting, selecting, training and providing appropriate support to the Teach For America teachers teaching in Mississippi.

**SOURCES:** Laws, 2008, ch. 461, § 1, eff from and after July 1, 2008.

#### § 37-160-3. Definitions.

As used in this chapter, the following words and phrases have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) “Grantee” means the Mississippi office of Teach For America, Inc., known as “Teach For America Delta.”



(b) “High need school district” means a school district experiencing a shortage of highly qualified teachers and includes, but is not necessarily limited to, those school districts in a geographical area of the state designated by the State Board of Education as having a critical shortage of teachers under the Mississippi Critical Teacher Shortage Act of 1998 (Sections 37-159-1 through 37-159-17).

**SOURCES:** Laws, 2008, ch. 461, § 2, eff from and after July 1, 2008.

**§ 37-160-5. Award of grants to Teach For America-Delta to recruit new teachers; use of funds.**

(1) The State Superintendent of Public Education may award annually a grant or grants to Teach For America Delta for the purpose of recruiting to Mississippi outstanding new teachers who commit to teach no less than two (2) years in an underserved community in the state. Each year, the Legislature may appropriate to the State Department of Education an amount that may be necessary for making a grant or grants under this section.

(2) In awarding grants to Teach For America Delta, the superintendent shall enter into an agreement with the grantee under which the grantee agrees to use the grant funds to raise additional funds for the following purposes:

(a) To provide highly qualified teachers to high need school districts in the state;

(b) To pay the costs of recruiting, selecting, training and supporting new teachers; and

(c) To serve the educational needs of a substantial number and percentage of underserved students.

(3) The grantee shall use all funds received under this chapter to support activities related directly to the recruitment, selection, training and support of teachers. Specifically, grant funds shall be used to carry out each of the following activities:

(a) Recruiting and selecting Teach For America teachers through a highly selective national process.

(b) Providing preservice training to the Teach For America teachers through a rigorous summer institute that includes hands-on teaching experience and significant exposure to education coursework and theory.

(c) Placing the Teach For America teachers in schools and positions designated by officials in those school districts participating in programs under the Mississippi Critical Teacher Shortage Act of 1998 as high need placements serving underserved students.

(d) Providing ongoing professional development activities for each Teach For America teacher's first two (2) years in the classroom, including regular classroom observations and critical feedback, and ongoing training and support that leads to a standard five-year teaching license.

**SOURCES:** Laws, 2008, ch. 461, § 3, eff from and after July 1, 2008.

**Cross References** — Mississippi Critical Teacher Shortage Act of 1998, see §§ 37-159-1 et seq.

## § 37-160-7. Grantee to provide written status report; report contents.

Before December 1 of each year, the grantee shall submit a written report to the State Superintendent of Public Education on the status of Teach For America Delta. The report must include no less than the following:

(a) Data on the Teach For America teachers under contract and teaching in a geographical critical teacher shortage area, including a list of those school districts that are partnering with Teach For America through funds provided under this chapter and the grades or subjects that are being taught by Teach For America teachers in those school districts;

(b) Data on each Teach For America teacher relating to the background of the teacher and the teacher's training and professional development;

(c) The retention rate of Teach For America teachers in Mississippi;

(d) The results of an externally conducted biannual analysis of the satisfaction rate of local principals regarding the quality and effect of Teach For America teachers in the principals' respective schools; and

(e) Any other information requested for the report by the State Superintendent of Public Education.

**SOURCES:** Laws, 2008, ch. 461, § 4, eff from and after July 1, 2008.

## CHAPTER 161

### Mississippi Education Reform Act of 2006

SEC.

37-161-3. Legislative findings and declarations; Mississippi Virtual Public School Program created; definitions; necessary instructional materials and access to necessary technology provided to students enrolled in virtual school; qualifications of teachers; enrollment to be free of charge to students.

## § 37-161-1. Short title; findings and determinations.

**SOURCES:** Laws, 2006, ch. 504, § 1; reenacted without change, Laws, 2009, ch. 345, § 31, eff from and after June 30, 2009.

**Editor's Note** — Former Section 19 of Chapter 504, Laws of 2006, provided for the repeal of this section, effective June 30, 2009. Section 1 of Chapter 345, Laws of 2009, amended Section 19 of Chapter 504, Laws of 2006, to remove the repealer for this section.

This section was reenacted without change by Laws of 2009, ch. 343, § 31, effective from and after June 30, 2009. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

**Amendment Notes** — The 2009 amendment reenacted the section without change.

**§ 37-161-3. Legislative findings and declarations; Mississippi Virtual Public School Program created; definitions; necessary instructional materials and access to necessary technology provided to students enrolled in virtual school; qualifications of teachers; enrollment to be free of charge to students.**

(1) The Legislature finds and declares the following:

(a) Meeting the educational needs of children in our state's schools is of the greatest importance to the future welfare of the State of Mississippi;

(b) Closing the achievement gap between high-performing students, including the achievement gap among at-risk students, is a significant and present challenge;

(c) Providing a broader range of educational options to parents and utilizing existing resources, along with technology, may help students in the state improve their academic achievement; and

(d) Many of the state's school districts currently lack the capacity to provide other public school choices for students whose schools are low performing.

(2) There is created the Mississippi Virtual Public School Program, which is the responsibility of the State Department of Education. It is the intent of the Legislature that the Mississippi Virtual Public School established under this section provides Mississippi families with an alternative choice to access additional educational resources in an effort to improve academic achievement. The Mississippi Virtual Public School must be recognized as a public school and provide equitable treatment and resources as are other public schools in the state. Private providers, overseen by the State Department of Education, may be selected by the State Board of Education to administer, manage or operate virtual school programs in this state, including the total operation of the Mississippi Virtual Public School Program. Any private provider chosen to provide services under the provisions of this subsection shall be chosen through a competitive RFP process.

(3) Nothing in this section may be interpreted as precluding the use of computer- and Internet-based instruction for students in a virtual or remote setting utilizing the Mississippi Virtual Public School.

(4) As used in this section, the following words and phrases have the meanings respectively ascribed unless the context clearly requires otherwise:

(a) "Mississippi Virtual Public School" means a public school in which the state uses technology in order to deliver instruction to students via the Internet in a virtual or remote setting.

(b) "Sponsor" means the public school district is responsible for the academic process for each student including, but not limited to, enrollment, awarding of credit and monitoring progress.

(5)(a) The State Board of Education shall establish the Mississippi Virtual Public School beginning in school year 2006-2007.

(b) Students who enroll in the Mississippi Virtual Public School may reside anywhere in the State of Mississippi.



(6) Subject to appropriation, the Mississippi Virtual Public School shall provide to each student enrolled in the school all necessary instructional materials. Subject to appropriation, the sponsored school must ensure that each student is provided access to the necessary technology, such as a computer and printer, and to an Internet connection for school work purposes.

(7) The State Board of Education shall have approval authority for all coursework and policy of the Mississippi Virtual Public School.

(8) Each teacher employed by or participating in the delivery of instruction through the Mississippi Virtual Public School must meet all qualifications for licensure in the State of Mississippi.

(9) Any student who meets state residency requirements may enroll in the Mississippi Virtual Public School.

(10) Enrollment in the Mississippi Virtual Public School must be free of charge to students. The costs associated with the operations of the virtual school must be shared by the State Department of Education, subject to appropriation, and/or the local school districts.

**SOURCES:** Laws, 2006, ch. 346, § 1; Laws, 2006, ch. 504, § 10; reenacted without change, Laws, 2009, ch. 345, § 32; Laws, 2010, ch. 330, § 1; Laws, 2011, ch. 442, § 19, eff from and after July 1, 2011.

**Editor's Note** — Former Section 19 of Chapter 504, Laws of 2006, provided for the repeal of this section, effective June 30, 2009. Section 1 of Chapter 345, Laws of 2009, amended Section 19 of Chapter 504, Laws of 2006, to remove the repealer for this section.

**Amendment Notes** — The 2009 amendment reenacted the section without change.

The 2010 amendment, in (2), in the next-to-last sentence, inserted “administer, manage or” and “including the total operation of the Mississippi Virtual Public School Program,” and added the last sentence; and substituted “every three (3) years” for “annually” in (6).

The 2011 amendment deleted former (6) which required evaluations of the Mississippi Virtual Public School every three years.

### **§ 37-161-5. Creation of Lifelong Learning Commission; composition; duties; annual report; meetings.**

**SOURCES:** Laws, 2006, ch. 346, § 4; Laws, 2006, ch. 504, § 13; reenacted without change, Laws, 2009, ch. 345, § 33, eff from and after June 30, 2009.

**Editor's Note** — Former Section 19 of Chapter 504, Laws of 2006, provided for the repeal of this section, effective June 30, 2009. Section 1 of Chapter 345, Laws of 2009, amended Section 19 of Chapter 504, Laws of 2006, to remove the repealer for this section.

This section was reenacted without change by Laws of 2009, ch. 343, § 33, effective from and after June 30, 2009. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

**Amendment Notes** — The 2009 amendment reenacted the section without change.

**§ 37-161-7. Wellness curriculum to be developed by State Board of Education; board shall adopt implementation rules and regulations.**

**SOURCES:** Laws, 2006, ch. 504, § 18; reenacted without change, Laws, 2009, ch. 345, § 34, eff from and after June 30, 2009.

**Editor's Note** — Former Section 19 of Chapter 504, Laws of 2006, provided for the repeal of this section, effective June 30, 2009. Section 1 of Chapter 345, Laws of 2009, amended Section 19 of Chapter 504, Laws of 2006, to remove the repealer for this section.

This section was reenacted without change by Laws of 2009, ch. 343, § 34, effective from and after June 30, 2009. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

**Amendment Notes** — The 2009 amendment reenacted the section without change.

## CHAPTER 163

### Education Achievement Council

SEC.  
37-163-1. Education Achievement council created; composition; duties and responsibilities; annual report; compensation.

**§ 37-163-1. Education Achievement council created; composition; duties and responsibilities; annual report; compensation.**

(1) There is created an Education Achievement Council whose purpose is to sustain attention to the state's goal of increasing the educational attainment and skill levels of the state's working-age population benchmark to the national average by 2025.

(2) The Education Achievement Council shall consist of twenty-three (23) members:

(a) The Chairmen of the House and Senate Universities and Colleges Committees;

(b) The Chairmen of the House and Senate Education Committees;

(c) A representative of the Governor's office appointed by the Governor;

(d) Two (2) members of the Board of Trustees of State Institutions of Higher Learning;

(e) The Chairman of the State Board of Education, or his designee;

(f) The Chairman and one (1) member of the State Board for Community and Junior Colleges, or his designee;

(g) The State Superintendent of Public Education, or his designee;

(h) The Commissioner of Higher Education, or his designee;

(i) The Executive Director of the State Board for Community and Junior Colleges, or his designee;

(j) Three (3) presidents of state institutions of higher learning appointed by the Board of Trustees of State Institutions of Higher Learning,

one (1) of which must be from a historically black institution of higher learning;

(k) Three (3) community and junior college presidents appointed by the State Board for Community and Junior Colleges;

(l) The Executive Director of the Mississippi Department of Mental Health, or his designee;

(m) The President and Chief Executive Officer of the Mississippi Economic Council; and

(n) The Chairmen of the House and Senate Appropriation Committees, or their designees.

(3) The Education Achievement Council shall work collaboratively with the Board of Trustees of State Institutions of Higher Learning and the State Board for Community and Junior Colleges to achieve the state's goal, and shall not displace any governing or coordinating responsibilities.

(4) The Education Achievement Council shall:

(a) Establish the education achievement goals for the state;

(b) Develop and prescribe appropriate planning processes;

(c) Establish appropriate benchmarks to measure progress, including degrees awarded per one hundred (100) full-time equivalent (FTE) students calculated using completed credit hours; conduct the necessary studies and analysis;

(d) Research and develop a new funding mechanism for public community colleges and state institutions of higher learning based upon productivity goals and accomplishments as well as enrollment, and submit a report thereon with necessary legislation to the Governor and the appropriate committees of the Legislature on or before November 1, 2012, for consideration at the 2013 Regular Session; and

(e) Contract for any professional services that it deems necessary to complete its work.

(5) The Education Achievement Council shall monitor and report on the state's progress toward these education achievement goals by preparing an annual state report card compiled from the annual reports prepared and submitted by each state institution of higher learning and community and junior college in the state. The state's annual report shall be made available on the Education Achievement Council website, as well as the websites of the Board of Trustees of State Institutions of Higher Learning and the State Board for Community and Junior Colleges.

(6) Each state institution of higher learning and community and junior college shall be required to develop and publish an annual report as prescribed by the Education Achievement Council. By November 1 of each year, as prescribed by the Education Achievement Council, each institution's annual report shall be published in a newspaper having general circulation in the county and posted on the institution's website in printable form. The public notice shall include information on the report's availability on the institution's website, with the website address, and the locations where a copy of the report may be obtained.



(7) Within sixty (60) days of March 24, 2010, the Education Achievement Council shall meet and organize by selecting from its membership a chairman, vice chairman and secretary each for a one-year term of office. A majority of the membership will constitute a quorum. In the selection of its officers and the adoption of rules, resolutions and reports, an affirmative majority vote shall be required. All members must be notified in writing of all meetings at least five (5) days before the date on which a meeting is scheduled.

(8) The Legislature may appropriate funds to the Board of Trustees of State Institutions of Higher Learning for the administrative, contractual costs, travel and other expenses of the Education Achievement Council.

(9) Members of the Education Achievement Council who are not legislators, state officials or state employees may be compensated at the per diem rate authorized by Section 25-3-41 for mileage and actual expense incurred in the performance of their duties. Legislative members of the Education Achievement Council may be paid from the contingent expense funds of their respective houses, but only with the specific approval of the Senate Rules Committee or House Management Committee; however, no per diem or expense is authorized for attending meetings of the Education Achievement Council when the Legislature is in session. Nonlegislative members may be paid from any funds made available for that purpose.

(10) The Commissioner of Higher Education, or his designee, shall serve as the principal staff to support the Education Achievement Council. The Commissioner of Higher Education and the Executive Director of the State Board for Community and Junior Colleges shall provide appropriate staff to support the work of the Education Achievement Council.

**SOURCES:** Laws, 2010, ch. 424, § 1; Laws, 2011, ch. 377, § 1, eff from and after July 1, 2011.

**Editor's Note** — Laws of 2009, ch. 489, § 2 provides:

“(1) It is the intent of the Legislature and the expectation of each institution of higher learning and community and junior colleges in the state that all students in such institutions receive a quality education and graduate from such institutions. The Legislature also recognizes that annual performance reports show that a significant number of students underperform and fail to meet their goal of graduation.

“(2) To assist the Legislature in shaping public policy to improve student outcomes and educational opportunities for all students in such institutions of higher learning, there is established a task force to study and report on the graduation rates in the state institutions of higher learning and junior and community colleges.

“(3) The task force shall be composed of the following thirteen (13) members:

“(a) The Chairmen of the House and Senate Universities and Colleges Committees;

“(b) The Chairmen of the House and Senate Education Committees;

“(c) The State Superintendent of Public Education or his designee;

“(d) The Commissioner of Higher Education or his designee;

“(e) The Director of the State Board for Community and Junior Colleges or his designee;

“(f) The Chairman of the Board of Trustees of State Institutions of Higher Learning, the State Board for Community and Junior Colleges and the State Board of Education;

“(g) A representative of the Governor's Office appointed by the Governor;

“(h) A president of one (1) comprehensive university appointed by the Board of Trustees of State Institutions of Higher Learning; and

“(i) A president of one (1) historical black’ university appointed by the Board of Trustees of State Institutions of Higher Learning.

“(4) Appointments to the task force must be made within thirty (30) days after the effective date of this act. Within fifteen (15) days after the expiration of the period for making appointments, on a day to be designated by the Commissioner of Higher Education, the task force shall meet and organize by selecting from its membership a chairman and a vice chairman. The vice chairman also must serve as secretary and be responsible for keeping all records of the task force. A majority of the membership of the task force shall constitute a quorum. In the selection of its officers and the adoption of rules, resolutions and reports, an affirmative vote of a majority of the task force shall be required. All members must be notified in writing of all meetings at least five (5) days before the date on which a meeting of the task force is scheduled.

“(5) The task force may contract for any professional services that it deems necessary to complete its work and shall tour any universities and community or junior colleges as it deems necessary. The Legislature shall appropriate sufficient funding to the Board of Trustees of State Institutions of Higher Learning for the contractual costs and travel associated with attending meetings and for the on-site visits to universities and community or junior colleges.

“(6) Members of the task force who are not legislators, state officials or state employees shall be compensated at the per diem rate authorized by Section 25-3-69 and reimbursed in accordance with Section 25-3-41 for mileage and actual expenses incurred in the performance of their duties. Legislative members of the task force shall be paid from the contingent expense funds of their respective houses in the same manner as provided for committee meetings when the Legislature is not in session; however, no per diem or expense for attending meetings of the task force may be paid while the Legislature is in session. Task force members may not incur per diem, travel or other expenses unless previously authorized by vote at a meeting of the task force, which action must be recorded in the official minutes of the meeting. Nonlegislative members may be paid from any funds made available to the task force for that purpose.

“(7) The task force shall compile data, study and report on measures that may be taken to improve graduation rates in the universities, community colleges and junior colleges.

“(8) The Commissioner of Higher Education shall provide appropriate staff to assist the task force with carrying out its duties. Before December 31, 2009, the task force shall submit to the Legislature and the Governor a written report of its findings and recommendations on measures to improve graduation rates in universities, community colleges and junior colleges. Upon presentation of its report, the task force shall be dissolved.”

Laws of 2010, ch. 424, preamble provides:

“WHEREAS, it is the intent of the Legislature and the expectation of the Board of Trustees for State Institutions of Higher Learning and the State Board for Community and Junior Colleges, as well as each institution of higher learning and community and junior college in the state that all students in those institutions receive a quality education and graduate from those institutions; and

“WHEREAS, the Mississippi Legislature, during the 2009 Regular Session, established the Graduation Rate Task Force to assist the Legislature in shaping public policy to improve student outcomes and educational opportunities for all students in the institutions of higher learning by focusing on the means and methods to improve graduation rates and numbers; and

“WHEREAS, the Graduation Rate Task Force completed its work on December 16, 2009, and submitted its report, recommending the need to increase the educational attainment and skill levels of the state’s working-age population benchmark to the national average by 2025 to prepare a globally competitive workforce, enhance the state’s future economy, and improve the quality of life for the state’s citizens; and

“WHEREAS, the Graduation Rate Task Force further recommended establishing the Education Attainment Council to sustain attention by leading this agenda in partner-

ship with the governing and coordinating roles of the Board of Trustees of State Institutions of Higher Learning and the State Board for Community and Junior Colleges; and

“WHEREAS, the Graduation Rate Task Force identified several key components of this agenda to include: the alignment of K-12 and higher education expectations for college-level learning; teacher preparation; reviewing admissions requirements and developmental education; implementation of a longitudinal data system; revising and strengthening transfer and articulation processes and policies; creating incentives for regional collaboration to ensure more students get through the system to higher levels of achievement; improving academic advisement at state institutions of higher learning; redesigning student financial aid; aligning financing policy with these long-term goals; and improving student recruitment, retention, persistence and completion; NOW, THEREFORE,”

**Amendment Notes** — The 2011 amendment added (4)(d) and made related changes.

## CHAPTER 165

### Conversion Charter School Act of 2010

#### SEC.

- 37-165-1. Short title [Repealed effective July 1, 2016].
- 37-165-3. Legislative intent [Repealed effective July 1, 2016].
- 37-165-5. Definitions [Repealed effective July 1, 2016].
- 37-165-7. Applicability; establishment of rules and regulations; contents of petition for conversion; procedures and process for conversion; selection of local management board; contents of conversion plan; powers and duties of local management board [Repealed effective July 1, 2016].
- 37-165-9. Immunity from civil and criminal liability; legal representation [Repealed effective July 1, 2016].
- 37-165-11. Time line for accepting conversion petitions; approval or denial of petition; written notification to sponsors of reasons for rejection of petition; resubmission after correction of deficiencies [Repealed effective July 1, 2016].
- 37-165-13. Conversion charter school considered public school for certain funding and service purposes; eligibility for enrollment in conversion charter school [Repealed effective July 1, 2016].
- 37-165-15. Term of contract for conversion charter school; removal from conversion charter school status [Repealed effective July 1, 2016].
- 37-165-17. Employees of conversion charter school are considered employees of local school district for purposes of receiving certain benefits [Repealed effective July 1, 2016].
- 37-165-19. Limit on number of conversion charter schools per congressional district [Repealed effective July 1, 2016].
- 37-165-21. Unlawful reprisal against school district employee for direct or indirect involvement in petition to convert public school to conversion charter school prohibited [Repealed effective July 1, 2016].
- 37-165-23. Applicability of Education Employment Procedures Law to employees of school converted to conversion charter school [Repealed effective July 1, 2016].
- 37-165-25. Sources of funding for public schools converted to conversion charter school [Repealed effective July 1, 2016].
- 37-165-27. Repeal of Sections 37-167-1, 37-9-3, 37-9-103 and 37-165-1 through 37-165-27.



**§ 37-165-1. Short title [Repealed effective July 1, 2016].**

This chapter shall be known and may be cited as the “Conversion Charter School Act of 2010.”

**SOURCES:** Laws, 2010, ch. 540, § 4, eff from and after July 1, 2010.

**Editor’s Note** — For repeal of this section, see § 37-165-27.

**§ 37-165-3. Legislative intent [Repealed effective July 1, 2016].**

It is the intent of the Legislature that this chapter provide a means whereby the parents or guardians of students enrolled in eligible local public schools may choose to enter into a binding academic or vocational, or both, performance-based contract approved by the State Board of Education, called a “contract.”

**SOURCES:** Laws, 2010, ch. 540, § 5, eff from and after July 1, 2010.

**Editor’s Note** — For repeal of this section, see § 37-165-27.

**§ 37-165-5. Definitions [Repealed effective July 1, 2016].**

For purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed in this section unless the context clearly indicates otherwise:

(a) “Conversion charter school” means a public school that has converted to operating under the terms of a contract entered into between the local management board of a conversion charter school and the State Board of Education.

(b) “Local school” means a public school in Mississippi which is under the management and control of the school board of the school district in which the school is located.

(c) “Petition” means a proposal to enter into an academic or vocational, or both, performance-based contract between the State Board of Education and the sponsors of a local school whereby the local school obtains a conversion charter school status.

(d) “Sponsor” means the group of parents or guardians of students enrolled in a public school rated as Low-Performing, At-Risk of Failing or Failing or an organization selected or appointed by the sponsoring group of parents or guardians to represent those parents or guardians submitting a petition to the State Board of Education for the conversion of a chronically under-performing public school into a conversion charter school, provided that during the petitioning process and the subsequent approval of a contract, that group of parents or guardians shall remain the sponsor of the conversion charter school.

(e) “Chronically under-performing public school” means a public school that, during each of three (3) consecutive school years, is rated as Low-

Performing, At-Risk of Failing or Failing, as determined by the State Department of Education. For the purposes of this chapter, the 2009-2010 school year shall be the first year that a school's classification may be considered.

(f) "Board" means the State Board of Education.

(g) "Department" means the State Department of Education.

(h) "Local management board" means the five-member governing board of a conversion charter school composed of the parents or guardians of students enrolled in the conversion charter school responsible for the academic and administrative functions and decisions of the conversion charter school. The academic responsibilities are subject to the authority of the State Board of Education and the administrative responsibilities are subject to the authority of the local school board.

**SOURCES:** Laws, 2010, ch. 540, § 6, eff from and after July 1, 2010.

**Editor's Note** — For repeal of this section, see § 37-165-27.

**§ 37-165-7. Applicability; establishment of rules and regulations; contents of petition for conversion; procedures and process for conversion; selection of local management board; contents of conversion plan; powers and duties of local management board [Repealed effective July 1, 2016].**

(1) The provisions of this chapter shall be applicable to only those chronically under-performing public schools in the State of Mississippi which seek to be converted, and ultimately may be converted, to conversion charter schools upon approval of a petition for conversion charter school status by the State Board of Education.

(2) The State Board of Education, subject to the requirements of the Mississippi Administrative Procedures Law, shall establish rules and regulations for the submission of petitions for the conversion of a public school to conversion charter school status and criteria and procedures for the operation of conversion charter schools. The board shall receive and review each petition for the conversion of a public school to conversion charter school status from the school's sponsors and, in its discretion, may approve the petition and grant conversion charter school status.

(3) In order to be approved, a petition for conversion charter school status must adequately include:

(a) A plan for improvement at the school level for improving student learning and achieving a Successful rating or higher under the State Accountability Model;

(b) A set of academic or vocational, or both, performance-based objectives and student achievement-based objectives for the term of the contract and the means for measuring those objectives on no less than an annual basis;

(c) An agreement to provide a yearly report to parents, the school board of the school district in which the conversion charter school is located, and the State Board of Education which indicates the progress made by the conversion charter school in the previous year in meeting the academic or vocational, or both, performance objectives;

(d) An agreement that the conversion charter school shall be nonsectarian;

(e) An agreement that the conversion charter school shall not charge tuition; and

(f) An agreement requiring the conversion charter school to be subject to financial audits in the same manner as public school districts.

(4) The procedures and process for the conversion of a public school to conversion charter school status shall be as follows:

(a) A petition shall be developed by a sponsor or its appointed representative and shall be made available to all parents or guardians of students enrolled in a public school that is chronically Low-Performing, At-Risk of Failing or Failing, as determined by the State Department of Education, with a copy of the proposed conversion plan attached to the petition for their inspection and signing;

(b) The petition and conversion plan must be approved by more than fifty percent (50%) of the families of the students enrolled in a chronically under-performing public school during the third consecutive year in which the school has been designated as Low-Performing, At-Risk of Failing or Failing, as determined by the State Department of Education. The family of a student enrolled in a chronically under-performing public school proposed to be converted to conversion charter school status shall be entitled to one (1) vote per family without regard to the number of children a family may have enrolled as students at the school. The group of parents or guardians submitting or having the petition submitted on their behalf shall be considered the sponsor of the conversion charter school;

(c) The sponsor shall prepare and submit the petition and the conversion plan for conversion charter school status approved by the parents or guardians of students enrolled in a chronically under-performing public school to the State Board of Education upon forms prescribed by or in a format specified by the board;

(d) Before the petition for conversion granting a public school conversion charter school status is submitted to the State Board of Education for approval, the sponsor shall conduct a public hearing in the local school district in which the school proposed for conversion is located to allow the parents or guardians of students enrolled in the chronically under-performing public school affected by the conversion to be informed of the conversion process and to address any concerns relating to the process and subsequent operation of the conversion charter school; and

(e) After the State Board of Education approves a petition for conversion charter school status, the parents or guardians of the students enrolled in the conversion charter school shall select members to serve on the



conversion charter school's local management board, which members shall be selected in accordance with the rules and regulations promulgated by the State Board of Education for the selection of conversion charter school local management board members.

(5) The conversion plan to be attached to the petition must include the following:

(a) A description of the plan for school improvement that addresses how the school proposes to work toward improving student learning and achieving a Successful rating or higher under the State Accountability Model;

(b) An outline of proposed academic or vocational, or both, performance criteria to be used during the initial period of the contract to measure progress of the school in improving student learning and achieving a Successful rating or higher under the State Accountability Model requiring that:

(i) Academic performance criteria must include specific and measureable benchmarks of academic performance on state assessments; and

(ii) Academic performance criteria include a requirement that conversion charter schools not miss adequate yearly progress for any two (2) consecutive years, as defined by the No Child Left Behind Act of 2001, or other future federal school accountability requirements;

(c) A provision requiring the conversion charter school to comply with all rules, regulations, policies and procedures of the State Board of Education and the local school board and the provisions of the Mississippi Code of 1972 relating to the elementary and secondary education of students, except those rules, regulations, policies or procedures from which the conversion charter school specifically requests to be exempted and which have been agreed upon by the State Board of Education as specified in the school's contract. Conversion charter schools must comply with general health and safety standards, state test assessments and accountability requirements, financial accountability and auditing requirements, and all reporting and data collecting requirements in the same manner as public schools in the local school district;

(d) The local management board shall not directly or indirectly communicate to a parent or guardian that the conversion charter school is unable to meet the needs of a child, but shall provide a free and public education to every student in the attendance zone;

(e) Conversion charter schools may not be exempted from the following statutes:

(i) Section 37-9-75, which relates to teacher strikes;

(ii) Section 37-11-20, which prohibits acts of intimidation intended to keep a student from attending school;

(iii) Section 37-11-21, which prohibits abuse of school staff;

(iv) Section 37-11-23, which prohibits the willful disruption of school and school meetings;

(v) Sections 37-11-29 and 37-11-31, which relate to reporting requirements regarding unlawful or violent acts on school property;

- (vi) Section 37-151-107, which prohibits false reporting of student counts by school officials;
- (vii) Applicable State Department of Health regulations;
- (viii) Applicable federal No Child Left Behind requirements and any additional federal education programs; and
- (ix) Applicable federal and state requirements for special education, gifted education and vocational education programs;
- (f) A detailed budget and a clear business plan, including any projected costs that extend beyond the regular operational costs of the conversion charter school;
- (g) A plan of governance and the process by which the members of the local management board of the conversion charter school shall be selected to serve as the governing administrative authority, provided that:
  - (i) The local management board shall be composed of parents or guardians of students enrolled in and in attendance at the conversion charter school, selected by other parents or guardians of students enrolled in and in attendance at that school;
  - (ii) Members of the local management board may serve a term of three (3) years; however, a member's term of service on the local management board is contingent upon that member having a child continuously enrolled as a student at the conversion charter school during each school year that the member serves on the board. If a student no longer attends the conversion charter school and the board member has no other child enrolled in and attending the school, the term of the member-parent or guardian shall expire immediately and a new member selected. If a student is promoted and the board member has no other child enrolled in and attending the conversion charter school, the term of the member-parent or guardian shall expire immediately and a new member selected, unless the member-parent or guardian has another child who will be enrolled in the conversion charter school in the next succeeding scholastic year;
  - (iii) Members of the local management board shall serve without compensation;
  - (iv) No member of the local school board of any public or private school district may serve on the local management board of a conversion charter school;
  - (v) Procedures for the subsequent selection of members and filling vacancies that occur on the local management board are included; and
  - (vi) The selection of members to the local management board of conversion charter schools shall be performed in accordance with the rules and regulations promulgated by the State Board of Education for the selection of conversion charter school local management board members;
- (h) An agreement to provide an annual academic achievement report to parents, the local school board of any school district from which the conversion charter school draws students and the State Board of Education, which indicates the progress made by the conversion charter school during

the previous year in meeting its academic or vocational performance objectives. The report shall include, but not be limited to, the following information:

- (i) Student progress concerning academic achievement;
- (ii) Student attendance;
- (iii) Student grades and scores on assessment instruments;
- (iv) Incidents involving student discipline;
- (v) Student socioeconomic data; and
- (vi) Parent satisfaction with the schools;

(i) An agreement to provide a yearly financial report to parents, the local school board of any school district from which the conversion charter school draws students and the State Board of Education, which discloses all public and private funds received by the conversion charter school, and how those funds were expended;

(j) An agreement requiring all student records, financial documentation, and all other pertinent records of student and school data shall be accessible by the local school board;

(k) An agreement requiring members of the local management board of a conversion charter school to attend the training required under Section 37-3-4, provided by the Mississippi School Boards Association for local school board members and public school superintendents of this state, in order for those individuals to carry out their duties more effectively. Members of the local management board shall be reimbursed for the necessary expenses and mileage in attending any required training and shall be paid a per diem for each day in attendance at the training by the local school district in the amount authorized by Section 37-6-13 for members of the local school board;

(l) A transcript of the public hearing required under subsection (4)(d) of this section; and

(m) A description of the discipline policy to be adopted by the local management board, or alternatively, an agreement that the local management board shall adhere to the discipline policy implemented for the school district by the local school board.

(6) If a petition for the conversion of a public school to conversion charter school status is approved, the local management board, subject to the utilization of any available resources, may:

(a) Extend the school day or length of the scholastic year;

(b) Develop and establish a curriculum that is consistent with the Mississippi Curriculum Framework which provides courses that promote postsecondary education and vocational preparation and/or admission;

(c) Select, purchase and use textbooks, literature and other instructional materials that would improve educational attainment by students in the school, subject to the approval of the State Board of Education;

(d) Select a person to be employed as the principal of the conversion charter school or may contract with a profit or nonprofit organization which has operated a successful public school in any state or the District of Columbia for the daily administrative management of the conversion



charter school, provided that daily administrative management shall not include the authority to employ or terminate conversion charter school administrators, teachers or other personnel, establish curriculum or adopt a budget. The person selected by the local management board to serve as principal of the conversion charter school must attend or must have attended a principal leadership program approved by the State Department of Education. If the local management board contracts with a profit or nonprofit organization for daily administrative management functions, that contract shall not abrogate or preempt any provisions of the contract entered into between the local management board and the State Board of Education for the conversion of the public school to conversion charter school status; and

(e) Select licensed teachers who are highly qualified under the No Child Left Behind Act for employment in the conversion charter school and determine the salaries of those teachers employed. The minimum salaries for licensed teachers employed in the conversion charter school shall be in accordance with the scale for teachers' salaries provided under the Teacher Opportunity Program, as established under Section 37-19-7.

(7)(a) All functions and decisions of the local management board impacting the academic curriculum, student progress and assessment, and the accountability standards of a conversion charter school shall be subject to the reviewing and approval authority of the State Board of Education.

(b) All administrative functions and decisions of the local management board impacting the financial or any other managerial or operational functions of a conversion charter school shall be subject to the reviewing and approval authority of the local school board.

(8) Meetings of the local management board shall be subject to the requirements of Sections 25-41-1 through 25-41-17 governing open meetings.

(9) Nothing in this chapter prohibits conversion charter schools from offering virtual service pursuant to state law and regulations defining virtual schools.

**SOURCES:** Laws, 2010, ch. 540, § 7, eff from and after July 1, 2010.

**Editor's Note** — For repeal of this section, see § 37-165-27.

**Cross References** — Provisions relating to the elementary and secondary education of students generally, see Title 37, Mississippi Code of 1972.

**Federal Aspects** — No Child Left Behind Act of 2001, P.L. 107-110, 115 Stat. 1425, see 20 USCS §§ 6301 et seq.

## § 37-165-9. Immunity from civil and criminal liability; legal representation [Repealed effective July 1, 2016].

(1) Members of the local management board, local school board and the State Board of Education are immune from civil and criminal liability with respect to all activities of a conversion charter school approved by the State Board of Education; however, the local management board, local school board or the State Board of Education, in its official capacity, may be held liable only

for matters with which the respective board has been involved directly, including the misappropriation of funds, the appropriation of funds beyond the scope of its authority, abridging the due process rights of a student attending the conversion charter school, gross negligence, intentional and willful misconduct, malfeasance and nonfeasance.

(2) The local school board shall provide the local management board of a conversion charter school with the same legal representation as is provided to the local school board.

**SOURCES:** Laws, 2010, ch. 540, § 8, eff from and after July 1, 2010.

**Editor's Note** — For repeal of this section, see § 37-165-27.

**§ 37-165-11. Time line for accepting conversion petitions; approval or denial of petition; written notification to sponsors of reasons for rejection of petition; resubmission after correction of deficiencies [Repealed effective July 1, 2016].**

(1) The State Board of Education shall establish a time line for accepting petitions requesting the conversion of a public school to conversion charter school status. The board and the Commission on School Accreditation shall review and rate all petitions for a conversion charter school.

(2) After initial review and rating, the board, with the advice of the Commission on School Accreditation, may approve or deny a petition based on criteria adopted by the board, which shall include criteria relating to improving student performance and encouraging new and innovative programs. The board must provide a written response to each sponsor submitting a petition in writing within forty-five (45) days after the closing date for receiving petitions in the form of an approval or rejection. The response to rejected petitions shall include notification to the sponsors of the reasons for rejection.

(3) The board shall allow each sponsor, who submits a petition for a conversion charter school within thirty (30) days before the closing date for receiving petitions to resubmit the petition, if the original petition was found to be deficient by the board, after the sponsor has corrected any deficiencies.

(4) If a public school has been designated as a chronically failing school for three (3) consecutive years, as determined by the State Department of Education, and the petition for conversion to conversion charter school status is rejected by the State Board of Education, the board, on its own motion, may initiate the procedure to transform the failing school into a new start school under the New Start School Program authorized under Section 37-167-1.

**SOURCES:** Laws, 2010, ch. 540, § 9, eff from and after July 1, 2010.

**Editor's Note** — For repeal of this section, see § 37-165-27.

**§ 37-165-13. Conversion charter school considered public school for certain funding and service purposes; eligibility for enrollment in conversion charter school [Repealed effective July 1, 2016].**

(1) A public school converted to conversion charter school status, upon approval by the State Board of Education, shall continue to be considered a public school under the authority of the local school district for purposes of receiving transportation services and funding, state funding for students based on per-pupil expenditures, classroom supplies resources, other adequate education program funds, including at-risk funding and any additional operational services provided to local schools by the district.

(2) The local school board, when providing transportation services to students enrolled in and attending a conversion charter school, shall comply with all statutes governing the transportation of students required of public school districts under Chapter 41, Title 37, Mississippi Code of 1972.

(3) All students enrolled in, in attendance at and residing in the attendance zone of a public school when a petition is submitted for conversion charter school status shall be deemed to be enrolled in the conversion charter school when the petition is approved by the State Board of Education without any required application process for the school. Enrollment in a conversion charter school is limited to those students residing in the attendance zone of the conversion charter school, and shall not be open for the enrollment of transfer students unless any openings are available, at which time students within the local public school district may apply for admission into the conversion charter school. A conversion charter school is subject to any desegregation court orders in effect in the school district in which the conversion charter school is located. In the event that openings are available in a conversion charter school, the local management board, with the approval of the State Board of Education, shall establish an application process for students in the local school district, who reside outside of the attendance zone of the public school granted conversion charter school status, to seek enrollment in the conversion charter school, provided that the process is in compliance with rules and regulations promulgated by the State Board of Education. The parent of any student granted admission to the conversion charter school who resides outside the attendance zone of the school shall be responsible for transporting the student to and from the school.

(4) Any student enrolled in a public school converted to conversion charter school status who elects not to attend the conversion charter school shall be permitted by the local school board to attend another public school in the local school district that the student otherwise would be eligible to attend if not enrolled at the conversion charter school. If there is not another public school in the local school district that the student would be eligible to attend serving the student's current grade level, the local school board shall grant the student a release to seek enrollment in another school district.



**SOURCES:** Laws, 2010, ch. 540, § 10, eff from and after July 1, 2010.

**Editor's Note** — For repeal of this section, see § 37-165-27.

**§ 37-165-15. Term of contract for conversion charter school; removal from conversion charter school status [Repealed effective July 1, 2016].**

(1) The initial contract issued by the State Board of Education for a public school converted to conversion charter school status shall be for a minimum term of three (3) years. Thereafter, the State Board of Education may renew the contract for a conversion charter school on a one-year or multiyear basis, not to exceed three (3) years, if all parties to the original contract approve the renewal with a vote of a majority of the parents or guardians of students enrolled in the conversion charter school.

(2) After a school has been in conversion charter school status for three (3) years, the parents or guardians of students enrolled in the conversion charter school may request removal from conversion charter school status upon the submission of a petition of more than fifty percent (50%) of those parents or guardians to the State Board of Education.

(3) The State Board of Education shall prescribe the circumstances under which a conversion charter school shall cease to be designated a conversion charter school subject to the rules and regulations of the State Board of Education relating to conversion charter schools.

**SOURCES:** Laws, 2010, ch. 540, § 11, eff from and after July 1, 2010.

**Editor's Note** — For repeal of this section, see § 37-165-27.

**§ 37-165-17. Employees of conversion charter school are considered employees of local school district for purposes of receiving certain benefits [Repealed effective July 1, 2016].**

All employees of a conversion charter school shall be deemed employees of the local school district for purposes of receiving certain state-funded employee benefits, including membership in the Public Employees' Retirement System and the State and School Employees Life and Health Insurance Plan. Conversion charter schools are public schools, and the employees of conversion charter schools are public school employees.

**SOURCES:** Laws, 2010, ch. 540, § 12, eff from and after July 1, 2010.

**Editor's Note** — For repeal of this section, see § 37-165-27.

**§ 37-165-19. Limit on number of conversion charter schools per congressional district [Repealed effective July 1, 2016].**

The State Board of Education with the advice of the Commission on School Accreditation may approve up to twelve (12) conversion charter schools during a period of six (6) years, under the authority provided under Section 37-165-11, which such conversion charter schools shall not begin operations before July 1, 2013; however, no more than three (3) petitions for conversion charter school status in each of the four (4) congressional districts may be approved. After the sixth year, the board shall evaluate the existing process of converting public schools to conversion charter school status and shall make a recommendation to the Legislature on the feasibility of increasing the number of conversion charter schools in the state.

**SOURCES:** Laws, 2010, ch. 540, § 13, eff from and after July 1, 2010.

**Editor's Note** — For repeal of this section, see § 37-165-27.

**§ 37-165-21. Unlawful reprisal against school district employee for direct or indirect involvement in petition to convert public school to conversion charter school prohibited [Repealed effective July 1, 2016].**

A school district, school district employee or any other person who has control over personnel actions may not take unlawful reprisal against an employee of the school district because the employee is directly or indirectly involved in a petition to convert a public school to conversion charter school status. As used in this section, the term “unlawful reprisal” means an action that is taken by another school district employee as a direct result of a lawful application to convert a public school to conversion charter school status and which is adverse to the employee and results in one or more of the following for the employee:

- (a) Disciplinary or corrective action;
- (b) Detail, transfer or reassignment;
- (c) Suspension, demotion or dismissal;
- (d) An unfavorable performance evaluation;
- (e) A reduction in pay, benefits or awards;
- (f) Elimination of the employee's position without a reduction in force by reason of lack of monies or work; or
- (g) Other significant changes in duties or responsibilities which are inconsistent with the employee's salary or employment classification.

**SOURCES:** Laws, 2010, ch. 540, § 14, eff from and after July 1, 2010.

**Editor's Note** — For repeal of this section, see § 37-165-27.

**§ 37-165-23. Applicability of Education Employment Procedures Law to employees of school converted to conversion charter school [Repealed effective July 1, 2016].**

The Education Employment Procedures Law shall not apply to any category of employee employed in any school that is converted to a conversion charter school under this chapter.

**SOURCES:** Laws, 2010, ch. 540, § 15, eff from and after July 1, 2010.

**Editor's Note** — For repeal of this section, see § 37-165-27.

**§ 37-165-25. Sources of funding for public schools converted to conversion charter school [Repealed effective July 1, 2016].**

In addition to receiving state funds for operations, public schools converted to conversion charter school status may accept bequests, devises, donations and grants from any public or private source and may apply for federal funding under the federal “Race to the Top” program. It is the intent of the Legislature that in accordance with the conditions of federal funding under the federal “Race to the Top” program, public schools converted to conversion charter school status in Mississippi are authorized to operate conversion charter and autonomous public school programs that are high-performing. It is further the intent of the Legislature that public schools converted to conversion charter school status receive equitable state and federal funding compared to traditional public schools, as required by the federal “Race to the Top” program, and that the state shall not impose any school facility-related requirements on conversion charter schools which are more restrictive than those applied to traditional public schools.

**SOURCES:** Laws, 2010, ch. 540, § 16, eff from and after July 1, 2010.

**Editor's Note** — For repeal of this section, see § 37-165-27.

**Federal Aspects** — The Race to the Top program mentioned in this section was authorized under Sections 14005 and 14006 of the federal American Recovery and Reinvestment Act of 2009 (Public Law 111-5).

**§ 37-165-27. Repeal of Sections 37-167-1, 37-9-3, 37-9-103 and 37-165-1 through 37-165-27.**

Sections 37-167-1, 37-9-3, 37-9-103 and 37-165-1 through 37-165-27 shall stand repealed on July 1, 2016.

**SOURCES:** Laws, 2010, ch. 540, § 17, eff from and after July 1, 2010.



## CHAPTER 167

## New Start School Program

SEC.

37-167-1. Applicability; definitions; New Start School Program established; notice to school employees and public of potential transformation of failing public school to new start school; adoption of rules and regulations; limitation of travel by superintendent and local school board under certain circumstances [Repealed effective July 1, 2016].

**§ 37-167-1. Applicability; definitions; New Start School Program established; notice to school employees and public of potential transformation of failing public school to new start school; adoption of rules and regulations; limitation of travel by superintendent and local school board under certain circumstances [Repealed effective July 1, 2016].**

(1) This section applies only to those public schools in the State of Mississippi which, during each of three (3) consecutive school years, are considered failing, as determined by the State Department of Education.

For purposes of this section, the term “new start school” means the successor school to a public school in the State of Mississippi which, during each of three (3) consecutive school years, is considered failing, as determined by the State Department of Education.

(2) There is established the New Start School Program for the purpose of transforming certain failing schools into quality educational options. Under the program, a new start school must be established in each public school that, during each of three (3) consecutive school years, is considered failing, as determined by the State Department of Education. The New Start School Program shall be under the administration of the Mississippi Recovery School District established under Section 37-17-6(11)(f).

(3)(a) Whenever a school is classified by the State Department of Education as a failing school for two (2) or more consecutive years, the Mississippi Recovery School District shall provide written notice to the principal and each licensed and nonlicensed employee in the school that if the school receives a classification of failing for the succeeding school year, the school will be transformed into a new start school and the person’s employment with the local school district shall be terminated. The notice shall be sent by the deputy superintendent responsible for the Mississippi Recovery School District as soon as practicable after the school is classified as failing.

(b) In addition to the notice required under paragraph (a) of this subsection (3), the Mississippi Recovery School District shall provide notice to the public in a newspaper of general circulation in the local county that if the school receives a classification of failing for the succeeding school year, the school will be transformed into a new start school. The advertisement may not be placed in any portion of the newspaper where legal notices and

classified advertisements appear. The advertisement shall appear in a newspaper that is published at least five (5) days a week, unless the only newspaper in the county is published less than five (5) days a week, in such case, the advertisement shall be published once a week for three (3) consecutive weeks. The newspaper selected must be one of general interest, readership and circulation in all areas of the community.

(4) If a school that has been classified by the State Department of Education as a failing school for two (2) or more consecutive years is determined to be a failing school during the next succeeding school year, the Mississippi Recovery School District shall take such steps as may be necessary to facilitate the transformation of the failing school into a new start school. However, the school board of the local school district in which such a school is located may appeal to the State Board of Education for an additional year before the school must be transformed into a new start school. The State Board of Education, in its discretion, may grant a one-year delay if it determines circumstances merit giving the school an additional year to achieve academic improvement. If, during the additional year, the school is classified again as a failing school, the Mississippi Recovery School District shall proceed to transform the failing school into a new start school.

(5) The State Board of Education shall adopt rules and regulations governing the transformation of chronically failing schools into new start schools. The State Board of Education shall adopt rules and regulations that ensure that all students who were enrolled in, in attendance at and residing in the attendance zone of the public school before a new start school is instituted shall continue being eligible for and shall be deemed to be enrolled in the new start school without any required application process for the school. The rules and regulations must include, but not necessarily be limited to, the following provisions:

(a) The State Board of Education shall adopt rules and regulations to evaluate the performance of all licensed and nonlicensed employees in schools that are to be transformed into a new start school. The performance evaluation shall be conducted by the State Department of Education at the conclusion of the second consecutive year in which a school is classified as failing. For all licensed employees the said rules and regulations shall use qualitative and quantitative data, which shall include using the measures of student achievement, to assess the effectiveness of the educator. Any employee that receives an unsatisfactory evaluation may be terminated by the school district in which the school is located. Upon completion of an improvement plan, a person employed other than as a teacher who is terminated may apply for a position at the new start school or at another location in the school district; however, the school district may exercise its discretion in determining whether or not the person will be offered continued employment with the district. Upon completion of an improvement plan, a teacher terminated under this paragraph (a) may apply for employment in the new start school or for a position at another location in the school district. A teacher terminated under this paragraph (a) may be reemployed

by the school district in the new start school, subject to the approval of that teacher's reemployment by the deputy superintendent responsible for the Mississippi Recovery School District.

(b) The deputy superintendent responsible for the Mississippi Recovery School District, with the assistance of an advisory committee of parents, guardians and community leaders, shall select a person to be employed as the principal of the new start school. Upon the request of the deputy superintendent, the superintendent of the school district in which the new start school is located shall enter into a contract with the person selected to be the principal in the same manner that contracts with principals are executed under Section 37-9-23. The principal of the new start school shall be an employee of the school district but shall report and be accountable directly to the deputy superintendent responsible for the Mississippi Recovery School District. All decisions impacting the academic, finance or any other managerial or operational functions of the new start school shall be subject to the review and approval of the Mississippi Recovery School District.

(c) The principal of the new start school, chosen by the deputy superintendent under paragraph (b) of this subsection (5), shall select and recommend for employment all licensed and nonlicensed personnel for the school in the same manner as provided for other schools. The principal shall endeavor to select only the most qualified applicants for employment in the new start school. Each teacher recommended for employment in the new start school must be approved by the Deputy Superintendent of the Mississippi Recovery School District before a contract for employment may be executed with the teacher.

(d) The State Board of Education shall develop professional development courses of training specifically designed for licensed personnel in a new start school. All licensed employees of the new start school shall be required to participate in the professional development courses.

(e) The principal of a new start school shall establish an advisory council to assist in the transformation of the new start school. The advisory council may be composed of parents, students, educators and other community members who are interested in the success of the new start school.

(f) Subject to the availability of funds for such purposes, the campus of the new start school may be refurbished in efforts to distinguish the new start school from the failing school it is replacing. A new start school may receive donations or grants from any public or private source for making improvements to the new start school.

(g) The State Board of Education shall prescribe the circumstances under which a new start school shall cease to be designated a new start school subject to the requirements of this section and the rules and regulations of the State Board of Education relating to new start schools.

(6) The 2009-2010 school year shall be the first year that a school's classification may be considered for purposes of this section, and a classification as a failing school in any year preceding the 2009-2010 school year may



not be considered in determining if a particular school must be transformed into a new start school.

(7) If a local school district has one or more schools designated as failing for two (2) or more consecutive years as determined by the performance classifications of the state accountability rating system, as defined and adopted by the State Board of Education, the superintendent of that local school district shall be restricted only to travel that is mandated by law or prescribed by the State Department of Education.

(8) If a local school district has one or more schools designated as failing for two (2) or more consecutive years as determined by the performance classifications of the state accountability rating system, as defined and adopted by the State Board of Education, the members of the local school board of that school district shall be restricted only to travel that is mandated by law or prescribed by the State Department of Education, and shall have the amount of their per diem reduced by one-half (½).

**SOURCES:** Laws, 2010, ch. 540, § 1, eff from and after July 1, 2010.

**Editor's Note** — For repeal of this section, see § 37-165-27.

## CHAPTER 169

### Mississippi Autism Advisory Committee

SEC.

- 37-169-1. Mississippi autism advisory committee created; purpose; report to Legislature.
- 37-169-3. Composition of advisory committee.
- 37-169-5. Duties of advisory committee; meetings; terms of members.

#### **§ 37-169-1. Mississippi autism advisory committee created; purpose; report to Legislature.**

The Mississippi Autism Advisory Committee is created to study, make recommendations and develop a strategic plan on how best to educate and train students with autism or ASD to maximize their potential productivity with the workforce. The committee shall meet at least six (6) times annually, and shall develop an annual plan. The report and plan of the committee, which shall be due annually on July 1, to the Mississippi Legislature, shall detail the progress and problems in creating meaningful progress in the areas of mental health, education, medical and employment for individuals with autism or ASD and their families.

**SOURCES:** Laws, 2011, ch. 370, § 1, eff from and after passage (approved Mar. 11, 2011.)

**Editor's Note** — “The preamble to ch. 370, Laws of 2011, effective from and after March 11, 2011, provides:

"WHEREAS, autism is a complex developmental disability that typically appears during the first three (3) years of life and is part of a group of disorders known as Autism Spectrum Disorders (ASD); and

"WHEREAS, as of the effective date of this act, at least one (1) in one hundred (100) individuals in the United States is diagnosed with autism, making it more common than the occurrences in our population of pediatric cancer, diabetes and AIDS combined; and

"WHEREAS, autism impairs a person's ability to communicate and relate to others; is associated with rigid routines and repetitive behaviors, such as obsessively arranging objects or following very specific routines; is four (4) times more likely to strike boys than girls; and occurs in all racial, ethnic and social groups; and

"WHEREAS, symptoms of the disability can range from very mild to quite severe, and autistic behaviors not only make life difficult for those individuals who suffer from the disability, but also make life hard for their families, health care providers and teachers; and

"WHEREAS, families coping with this devastating illness are struggling with the state's education and medical systems to adequately educate and treat their children; and

"WHEREAS, there is no known means to prevent the disability; there are indications that early intervention in an appropriate educational setting for at least two (2) years during the preschool years can result in significant improvements for many young children with the disorder; and

"WHEREAS, statistically, there is an extreme under identification of children with autism; and

"WHEREAS, employment opportunities for individuals with ASD need to be identified; and

"WHEREAS, the Mississippi Legislature recognizes that strategies for how to best identify, treat, educate, accommodate and employ individuals with autism and assist their families are urgently needed in our state; NOW, THEREFORE,"

### § 37-169-3. Composition of advisory committee.

Members of the advisory committee shall be composed of the following:

(a) Five (5) persons who are the parents of children with autism or ASD, with one (1) such person to be appointed by the Governor, two (2) to be appointed by the Lieutenant Governor, and two (2) to be appointed by the Speaker of the House;

(b) One (1) person who is a member of the governing body of a school district, to be appointed by the State Superintendent of Public Education;

(c) The State Superintendent of Public Education or the Associate Superintendent of the Office of Special Education;

(d) One (1) person who is the director of special education services in a school district, to be appointed by the State Superintendent of Public Education;

(e) Two (2) members of the Mississippi Special Education Advisory Committee, to be selected by the committee;

(f) Two (2) educators or behavioral specialists who work directly with students with ASD, to be appointed by the State Superintendent of Public Education;

(g) Two (2) Mississippi licensed psychologists who perform evaluation or consultation with Mississippi schools, to be appointed by the Mississippi Association of Psychology in the Schools;

(h) The project director of the Mississippi Parent Training and Information Center;

(i) Two (2) persons who are representatives of autism advocacy groups or professionals who work with the advocacy groups and provide services to individuals with autism or ASD, to be appointed by the Executive Director of the Department of Mental Health;

(j) One (1) person who is a representative of the State Department of Mental Health, to be appointed by the executive director of the department;

(k) One (1) person who is a representative of a private mental health facility who provides services to youth with ASD, to be appointed by the Executive Director of the State Department of Mental Health;

(l) One (1) person who is a representative of the University of Mississippi Medical Center and who provides medical or other services to individuals with autism or ASD, to be appointed by the Vice Chancellor of the University of Mississippi Medical Center;

(m) Two (2) persons who are working in private industry whose business has the potential to employ individuals with autism, to be appointed by the Governor;

(n) One (1) person who is a Transition Specialist, to be appointed by the State Superintendent of Public Education;

(o) One (1) representative of the T.K. Martin Center, to be appointed by the Director of the T.K. Martin Center;

(p) One (1) representative of the Mississippi Department of Rehabilitation Services;

(q) Two (2) persons who are licensed therapists, to be appointed by the President of the Mississippi Speech Language and Hearing Association;

(r) One (1) person who is a representative of the Mississippi Department of Insurance, to be appointed by the commissioner; and

(s) One (1) person who is a representative of the Mississippi Department of Human Services, to be appointed by the director of the department.

**SOURCES:** Laws, 2011, ch. 370, § 2, eff from and after passage (approved Mar. 11, 2011.)

### **§ 37-169-5. Duties of advisory committee; meetings; terms of members.**

(1) The advisory committee shall:

(a) Review the recommendations of the Caring for Individuals with Autism Task Force of 2007;

(b) Evaluate, study and identify any and all current relevant information and make legislative recommendations regarding the development and implementation of a continuum of educational and medical services for individuals with autism or ASD; and

(c) File a report with those standing committees of the Mississippi Legislature and present the report to those state agencies having jurisdic-



tion over specific recommendations of the task force, not later than July 1 of each year.

(2) The advisory committee shall hold its first meeting not later than April 1, 2011, with the date, time and location of the meeting to be designated by the Executive Director of the Department of Mental Health. At that first meeting, the advisory committee shall elect from among its membership a chairman, vice chairman and any other officers determined to be necessary, and shall set the date, time and location of its next meeting.

(3) The terms of advisory committee members shall run for two (2) years, concurrent with the term of members of the Mississippi Congressional Delegation elected to the United States House of Representatives.

(4) The State Department of Mental Health shall provide the staff and other support necessary for the Mississippi Autism Advisory Committee to perform its duties.

(5) Members of the advisory committee shall serve without compensation in the form of a per diem or any other expense for service on the committee.

**SOURCES: Laws, 2011, ch. 370, § 3, eff from and after passage (approved Mar. 11, 2011.)**

**Editor's Note** — "The preamble and § 1 of ch. 456, Laws of 2007, provide:

"WHEREAS, autism is a complex developmental disability that typically appears during the first three (3) years of life and is part of a group of disorders known as Autism Spectrum Disorders (ASD); and

"WHEREAS, as of the effective date of this act, at least one (1) in one hundred sixty-six (166) individuals in the United States is diagnosed with autism, making it more common than the occurrences in our population of pediatric cancer, diabetes, and AIDS combined; and

"WHEREAS, autism impairs a person's ability to communicate and relate to others; is associated with rigid routines and repetitive behaviors, such as obsessively arranging objects or following very specific routines; is four (4) times more likely to strike boys than girls; and occurs in all racial, ethnic and social groups; and

"WHEREAS, symptoms of the disability can range from very mild to quite severe, and autistic behaviors not only make life difficult for those individuals who suffer from the disability, but also make life hard for their families, health care providers and teachers; and

"WHEREAS, families coping with this devastating illness are searching for answers about its causes, diagnosis, prevention and treatment, and while there is no known means to prevent the disability, there are indications that early intervention in an appropriate educational setting for at least two (2) years during the preschool years can result in significant improvements for many young children with the disorder; and

"WHEREAS, the Mississippi Legislature recognizes that strategies for how to best identify, treat and accommodate the needs of individuals with autism and of their families are urgently needed in our state; NOW, THEREFORE,"

**"SECTION 1. (1)** The Caring for Mississippi Individuals with Autism Task Force is created to study and make recommendations to the Mississippi Legislature regarding the growing incidence of autism and Autism Spectrum Disorders (ASD), how to identify, treat and accommodate the needs of individuals with autism and ASD, and ways to improve the delivery and coordination of state services provided to individuals with autism and ASD. Members of the task force shall be composed of the following:

"(a) Three (3) persons who are the parents of children with autism or ASD, with one (1) such person to be appointed by the Governor, one (1) to be appointed by the Lieutenant Governor, and one (1) to be appointed by the Speaker of the House;

“(b) One (1) person who is a member of the governing body of a school district, to be appointed by the State Superintendent of Public Education;

“(c) One (1) person who represents the State Department of Education, to be appointed by the State Superintendent of Public Education;

“(d) One (1) person who is the director of special education services in a school district, to be appointed by the State Superintendent of Public Education;

“(e) One (1) person who is a representative of the State Department of Mental Health, to be appointed by the executive director of the department;

“(f) Three (3) persons who are representatives of the State Department of Mental Health who are from regions in the state that provide services to individuals with autism or ASD, to be appointed by the executive director of the department;

“(g) One (1) person who is a representative of the University of Mississippi Medical Center and who provides medical or other services to individuals with autism or ASD, to be appointed by the Vice Chancellor of the University of Mississippi Medical Center;

“(h) Two (2) persons who are Mississippi pediatricians engaged in the private practice of medicine and who provide treatment to individuals with autism or ASD, to be appointed by the Vice Chancellor of the University of Mississippi Medical Center;

“(i) Two (2) persons who are licensed therapists appointed by the President of the Mississippi Speech Language and Hearing Association.

“(2) The task force shall:

“(a) Review the best practices of other states with regard to educational, medical and early intervention services provided to individuals diagnosed with autism or ASD and identify the best practices of other states;

“(b) Review the standard of services provided by local Mississippi school districts and early intervention programs to individuals diagnosed with autism or ASD, identify any additional potential funding sources for school districts, and identify guidelines for measurable educational and instructional goals that can be used by members of the education community for serving children with autism or ASD;

“(c) Assess the medical availability of services currently provided for early screening, diagnosis and treatment of autism and ASD and provide recommendations for enhancing medical services;

“(d) Identify the role of higher education in developing a workforce in Mississippi possessing the skills necessary to assist individuals with autism or ASD in medical, educational, and vocational efforts or in providing additional services associated with autism or ASD;

“(e) Evaluate and identify any and all additional relevant information and make legislative recommendations regarding the development and implementation of a continuum of educational and medical services for individuals with autism or ASD; and

“(f) File a report with those standing committees of the Mississippi State Legislature and with those state agencies having jurisdiction over specific recommendations of the task force, not later than December 1, 2007.

“(3) The task force shall hold its first meeting not later than April 1, 2007, with the date, time and location of the meeting to be designated by the Governor. At that first meeting, the task force shall elect from among its membership a chairman, vice chairman and any other officers determined to be necessary, and shall set the date, time and location of its next meeting.

“(4) The State Department of Mental Health shall provide the staff and other support necessary for the Caring for Mississippi Individuals with Autism Task Force to perform its duties.”

## CHAPTER 171

### Use of School Property by Public for Recreation and Sports

SEC.	
37-171-1.	Legislative findings and intent.
37-171-3.	Definitions.
37-171-5.	Use of school property during nonschool hours by public for recreation or sports authorized; liability.
37-171-7.	Shared use agreements with community organizations and local governmental agencies.

#### § 37-171-1. Legislative findings and intent.

(1) The Legislature finds the following:

(a) The Centers for Disease Control and Prevention has released studies documenting:

(i) Overweight and obese children experience the same risk factors that are associated with heart disease in adults, including high blood pressure, high cholesterol levels and Type 2 diabetes, once referred to as adult-onset diabetes;

(ii) Every year, an estimated three hundred thousand (300,000) people in America die because of diseases caused by being overweight and obese;

(iii) Studies have shown that up to eighty percent (80%) of overweight adolescents become overweight adults;

(iv) Fourteen percent (14%) of deaths from cancer in men and twenty percent (20%) of cancer deaths in women are because of being overweight and obese; and

(v) The annual economic impact in the United States from obesity on our health care system is estimated at One Hundred Forty-seven Billion Dollars (\$147,000,000,000.00);

(b) According to the National Survey of Children's Health, Mississippi's childhood obesity rates are the highest in the nation;

(c) A recent study by a major insurance carrier stated that fifty percent (50%) of all Americans will have diabetes by the year 2020, costing the health care system approximately Three Trillion Three Hundred Fifty Billion Dollars (\$3,350,000,000,000.00) if current trends in obesity are not abated; and

(d) According to the Journal of Nutrition Education and Behavior, adults with a household member who participated in a community garden consumed fruits and vegetables one and four-tenths ( $1\frac{4}{10}$ ) more times per day than those who did not participate, and they were three and one-half ( $3\frac{1}{2}$ ) times more likely to consume fruits and vegetables at least five (5) times daily.

(2) Therefore, the Legislature declares that the intent of this chapter is to make school property available to community members during nonschool hours for recreational activities in order to support active living, reduce



obesity, reduce health care costs associated with obesity, increase community safety, maximize community resources, and promote community support for schools.

**SOURCES:** Laws, 2012, ch. 475, § 1, eff from and after July 1, 2012.

### § 37-171-3. Definitions.

As used in this chapter, the following words and phrases have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) "Recreation" means any indoor or outdoor game or activity, either organized or unorganized, undertaken for exercise, relaxation, diversion, sport or pleasure.

(b) "School property" means all indoor or outdoor structures, facilities and land, whether owned, rented or leased by the school or school district.

(c) "Sport" means an activity requiring physical exertion and skill and which, by its nature and organization, is competitive and generally accepted as being a sport.

(d) "Shared use agreement" means a legal agreement that defines the rights and responsibilities of the school district and another organization or governmental agency for use of the school facilities for recreation or other purpose of importance to the community.

(e) "Local government entity" means any county, municipality, school district, public hospital or other political subdivision of the state.

**SOURCES:** Laws, 2012, ch. 475, § 2, eff from and after July 1, 2012.

### § 37-171-5. Use of school property during nonschool hours by public for recreation or sports authorized; liability.

(1) The school board of a school district may adopt a policy allowing the public use of indoor or outdoor school property during nonschool hours for purposes of recreation or sport. The school district must ensure that this use of school facilities by the public does not interfere with the use of those facilities for school purposes.

(2) School districts and school district employees may not be held liable for any claim resulting from a loss or injury arising from the use of indoor or outdoor school property or facilities made available for public recreation or sport. However, this chapter does not relieve a school district or school district employee of liability that otherwise exists for:

(a) Deliberate, willful or malicious injury to persons or property by a school district employee; or

(b) Injury resulting from a lack of proper maintenance or upkeep of a piece of equipment or facilities, unless the school district or school district employee had attempted to restrict access to a piece of equipment or facilities area in need of repair which would endanger a student during normal school hours.

This subsection may not be deemed to create or increase the liability of any person.

**SOURCES:** Laws, 2012, ch. 475, § 3, eff from and after July 1, 2012.

**§ 37-171-7. Shared use agreements with community organizations and local governmental agencies.**

(1) School districts are encouraged strongly to enter into shared use agreements with community organizations and local governmental agencies.

(2) Local government entities are expressly authorized to enter into such shared use agreements and/or expend public funds and/or to use public labor and/or equipment and/or commodities in furtherance of the purpose of such agreements.

(3) The State Department of Education, in consultation with the State Department of Health, shall develop a best practices tool kit relating to shared use agreements for school districts. This tool kit must include:

(a) Information outlining liability protections for both the school district and school district employees for injuries resulting from community use of school property or facilities for purposes of recreation or sport during nonschool hours;

(b) Model shared use agreement language;

(c) A list of technical assistance resources available for the school district to promote community recreational use of school property or facilities during nonschool hours;

(d) A list of potential community partners for shared use agreements; and

(e) A list of any grants or funding opportunities available to school districts to promote community recreational use of school property or facilities during nonschool hours.

The tool kit must be posted on the State Department of Education and State Department of Health websites. The State Department of Education shall review the information required by this section no less than every two (2) years and shall update the information as necessary.

(4) The State Department of Education shall provide a link on the department's website to any school district policies or procedures that promote community recreational use of school property or facilities in order to encourage information sharing among the school districts.

(5) Each school district, in consultation with the school health council, must address community recreational use of school property or facilities during nonschool hours.

**SOURCES:** Laws, 2012, ch. 475, § 4, eff from and after July 1, 2012.

## CHAPTER 173

**Dyslexia Therapy Scholarship for Students with Dyslexia Program**

## SEC.

- 37-173-1. Definitions [Repealed effective July 1, 2016].
- 37-173-3. Mississippi Dyslexia Therapy Scholarship for Students with Dyslexia Program established [Repealed effective July 1, 2016].
- 37-173-5. Option to remove child from traditional school and enroll in public or nonpublic school that meets standards for unique learning needs of students with dyslexia; scholarship eligibility requirements [Repealed effective July 1, 2016].
- 37-173-7. Student eligibility for scholarship; duration of scholarship [Repealed effective July 1, 2016].
- 37-173-9. Public school option; nonpublic school option [Repealed effective July 1, 2016].
- 37-173-11. Parental obligations if applying for Mississippi Dyslexia Therapy Scholarship [Repealed effective July 1, 2016].
- 37-173-13. Maximum scholarship; report by nonpublic schools; disbursement of payments to nonpublic schools [Repealed effective July 1, 2016].
- 37-173-15. Screening of all compulsory-school-age children enrolled in public school for dyslexia; subsequent dyslexia evaluations [Repealed effective July 1, 2016].
- 37-173-17. Eligibility requirements for nonpublic schools to participate in scholarship program [Repealed effective July 1, 2016].
- 37-173-19. Publication of information regarding Mississippi Dyslexia Therapy Scholarship; annual reports [Repealed effective July 1, 2016].
- 37-173-21. Administrative and instructional personnel qualifications [Repealed effective July 1, 2016].
- 37-173-23. Criminal background checks and fingerprinting of school personnel [Repealed effective July 1, 2016].
- 37-173-25. Payment of federal and state aid program monies to participating schools; audit and budget submission requirements [Repealed effective July 1, 2016].
- 37-173-27. Liability for award or use of Mississippi Dyslexia Therapy Scholarship [Repealed effective July 1, 2016].
- 37-173-29. No expansion of regulatory authority of state over nonpublic schools beyond what is necessary to enforce this chapter [Repealed effective July 1, 2016].
- 37-173-31. Repeal of chapter [Repealed effective July 1, 2016].

**§ 37-173-1. Definitions [Repealed effective July 1, 2016].**

As used in this chapter, the following words and phrases shall have the meanings ascribed in this section unless the context clearly indicates otherwise:

- (a) "Board" means the State Board of Education.
- (b) "Department" means the State Department of Education.

(c) "Dyslexia" means a specific learning disability that is neurological in origin, characterized by difficulties with accurate and fluent word recognition and poor spelling and decoding abilities, which typically result from a deficit in the phonological component of language that is often unexpected in relation to other cognitive abilities and the provision of effective classroom



instruction, and secondary consequences which may include problems in reading comprehension and reduced reading experience that can impede growth of vocabulary and background knowledge.

(d) “Dyslexia therapy” means an appropriate specialized dyslexia instructional program that is delivered by a Mississippi Department of Education licensed dyslexia therapist which is scientific, research-based, Orton-Gillingham based, and is offered in a small group setting to teach students the components of reading instruction which include:

(i) Phonemic awareness to enable students to detect, segment, blend and manipulate sounds in spoken language;

(ii) Graphophonemic knowledge (phonics) for teaching the letter-sound plan of English;

(iii) The entire structure of the English language that encompasses morphology, semantics, syntax and pragmatics;

(iv) Linguistic instruction directed toward proficiency and fluency with the patterns of language so that words and sentences are carriers of meaning; and

(v) Strategies that students use for decoding, encoding, word recognition, fluency and comprehension.

These components shall be taught using instructional approaches that include explicit, direct instruction which is systematic, sequential and cumulative, following a logical plan of presenting the alphabetic principle commensurate with the students’ needs, with no assumption of prior skills or language knowledge; individualized to meet the specific learning needs of each individual student in a small group setting; intensive, highly concentrated instruction that maximizes student engagement and uses specialized methods and materials; meaning-based instruction directed toward purposeful reading and writing, with an emphasis on comprehension and composition; and multisensory instruction that incorporates the simultaneous use of two (2) or more sensory pathways during teacher presentations and student practice.

(e) “Dyslexia therapist” means a professional who has completed training in a department approved Orton-Gillingham based dyslexia therapy training program attaining a AA license in dyslexia therapy or a professional participating in a state approved dyslexia therapy training program to attain a AA license in dyslexia therapy.

(f) “Mississippi Dyslexia Therapy Scholarship for Students with Dyslexia Program” means a scholarship to provide the option to attend a public school other than the one to which assigned, or to provide a scholarship to a nonpublic school of choice, for students in Grade 1 through Grade 6 diagnosed with dyslexia in order to receive comprehensive multisensory dyslexia therapy delivered by holders of an appropriate license in dyslexia therapy issued by the department.

(g) “School” means any public or state accredited nonpublic special purpose school that provides a specific learning environment that provides comprehensive dyslexia therapy instruction delivered by dyslexia therapists

licensed by the department providing highly qualified education and intervention services to children diagnosed with the primary learning disability of dyslexia.

**SOURCES:** Laws, 2012, ch. 560, § 1, eff from and after July 1, 2012.

**Editor's Note** — For repeal of this section, see § 37-173-31.

**§ 37-173-3. Mississippi Dyslexia Therapy Scholarship for Students with Dyslexia Program established [Repealed effective July 1, 2016].**

The Mississippi Dyslexia Therapy Scholarship for Students with Dyslexia Program is established to provide the option to attend a public school other than the one to which assigned, or to provide a scholarship to a nonpublic school of choice, for students with a diagnosis of dyslexia. Students in Grades 1-6 who have been properly screened and diagnosed with dyslexia shall be eligible to receive scholarship assistance under this program.

**SOURCES:** Laws, 2012, ch. 560, § 2, eff from and after July 1, 2012.

**Editor's Note** — For repeal of this section, see § 37-173-31.

**§ 37-173-5. Option to remove child from traditional school and enroll in public or nonpublic school that meets standards for unique learning needs of students with dyslexia; scholarship eligibility requirements [Repealed effective July 1, 2016].**

(1) Parents or legal guardians may exercise the option to remove their child from a traditional public school setting to be enrolled in a public or nonpublic school which meets the standards for appropriate specific instruction designed to meet the unique learning needs of young dyslexic students. The objectives of such school shall be:

(a) To emphasize the importance of early intervention; and

(b) To provide intensive high-quality instruction of students in reading, spelling, writing, language arts, phonological awareness and fluency training, but shall not preclude instruction in mathematics, social studies, science, art, music and physical education based on the curriculum requirements of the State Department of Education.

(2) The parent or legal guardian of a public school student with dyslexia may request and receive from the state a Mississippi Dyslexia Therapy Scholarship for the child to enroll in and attend a nonpublic school in accordance with this section if:

(a) The student has spent the previous school year in attendance at a Mississippi public school or any other state approved nonpublic school in the state that emphasizes instruction in dyslexia intervention; or

(b) The parent or legal guardian has obtained acceptance for admission of the student to a nonpublic school that is eligible for the program under Section 37-173-19 and has requested from the department a scholarship within thirty (30) days before the date of the first scholarship payment. The request must be through a communication directly to the department in a manner that creates a written or electronic record of the request and the date of receipt of the request. The Department of Education must notify the district of the parent's or legal guardian's intent upon receipt of the parent's or legal guardian's request.

**SOURCES:** Laws, 2012, ch. 560, § 3, eff from and after July 1, 2012.

**Editor's Note** — For repeal of this section, see § 37-173-31.

**§ 37-173-7. Student eligibility for scholarship; duration of scholarship [Repealed effective July 1, 2016].**

(1) A student is not eligible for a Mississippi Dyslexia Therapy Scholarship while he or she is:

(a) Enrolled in a school operating for the purpose of providing educational services to youth in Department of Juvenile Justice commitment programs;

(b) Participating in a home-school education program;

(c) Participating in a virtual school, correspondence school, or distance learning program that receives state funding under the student's participation unless the participation is limited to no more than two (2) courses per school year;

(d) Not having regular and direct contact with his or her private school teachers at the school's physical location.

(2)(a) For purposes of continuity of educational choice, a Mississippi Dyslexia Therapy Scholarship shall remain in force until the student returns to a public school or completes Grade 6, whichever occurs first.

(b) Upon reasonable notice to the department and the school district, the student's parent or legal guardian may remove the student from the nonpublic school and place the student in a public school in accordance with this section.

**SOURCES:** Laws, 2012, ch. 560, § 4, eff from and after July 1, 2012.

**Editor's Note** — For repeal of this section, see § 37-173-31.

**§ 37-173-9. Public school option; nonpublic school option [Repealed effective July 1, 2016].**

(1)(a) The parent or legal guardian is not required to accept the offer of enrolling in another public school in lieu of requesting a Mississippi Dyslexia Therapy Scholarship to a nonpublic school. However, if the parent or legal guardian chooses the public school option, the student may continue attend-



ing a public school chosen by the parent or legal guardian until the student completes Grade 6.

(b) If the parent or legal guardian chooses a public school within the district, the school district shall provide transportation to the public school selected by the parent or legal guardian. However, if the parent or legal guardian chooses a public school in another district, the parent or legal guardian is responsible to provide transportation to the school of choice.

(2) Each local school district shall make an initial determination of whether a student diagnosed with dyslexia qualifies under the Individuals with Disabilities Education Act (IDEA) to receive services and funding under the provisions of the IDEA before proceeding to the development of a 504 Plan for each dyslexic student eligible for educational services or equipment, or both, under Sections 37-23-1 through 37-23-157. If a student's diagnosis of dyslexia results in a determination that the disability is not a disability which would qualify the student as eligible under the IDEA, then in developing the written 504 Plan for each dyslexia student, there shall be a presumption that proficiency in spelling, reading and writing are essential for the student to achieve appropriate educational progress. Each local school district shall develop interventions and strategies to address the needs of those students diagnosed with dyslexia which provide the necessary accommodations to enable the student to achieve appropriate educational progress. The interventions and strategies developed shall include, but not be limited to, the use of the 3-Tier Instructional Model and the utilization of provisions of the IDEA and Section 504 to address those needs.

Furthermore, these provisions do not prohibit a parent or legal guardian of a student diagnosed with dyslexia, at any time, from choosing the option of a Mississippi Dyslexia Therapy Scholarship which would allow the student to attend another public school or nonpublic special purpose school.

(3) If the parent or legal guardian chooses the nonpublic school option and the student is accepted by the nonpublic school pending the availability of a space for the student, the parent or legal guardian of the student must notify the department thirty (30) days before the first scholarship payment and before entering the nonpublic school in order to be eligible for the scholarship when a space becomes available for the student in the nonpublic school.

(4) The parent or legal guardian of a student may choose, as an alternative, to enroll the student in and transport the student to a public school in an adjacent school district which has available space and has a program with dyslexia services that provide daily dyslexia therapy sessions delivered by a department licensed dyslexia therapist, and that school district shall accept the student and report the student for purposes of the district's funding under the Mississippi Adequate Education Program.

**SOURCES:** Laws, 2012, ch. 560, § 5, eff from and after July 1, 2012.

**Cross References** — Mississippi Adequate Education Program, see § 37-151-1 et seq.

**Federal Aspects** — Individuals with Disabilities Education Act (IDEA), see 20 USCS § 1400 et seq.

Section 504 of the Rehabilitation Act, see 29 USCS § 794.

**§ 37-173-11. Parental obligations if applying for Mississippi Dyslexia Therapy Scholarship [Repealed effective July 1, 2016].**

A parent or legal guardian who applies for a Mississippi Dyslexia Therapy Scholarship is exercising his or her parental option to place his or her child in a nonpublic school. Each participating parent or legal guardian and student shall adhere to the following:

(a) The parent or legal guardian must select the nonpublic school and apply for the admission of his or her child;

(b) The parent or legal guardian must have requested the scholarship at least thirty (30) days before the date of the first scholarship payment;

(c) Any student participating in the Mississippi Dyslexia Therapy Scholarship for Students with Dyslexia Program must remain in attendance throughout the school year unless excused by the school for illness or other good cause; and

(d) Each parent or legal guardian and each student has an obligation to the nonpublic special purpose school to comply with the nonpublic special purpose school's published policies.

**SOURCES:** Laws, 2012, ch. 560, § 6, eff from and after July 1, 2012.

**Editor's Note** — For repeal of this section, see § 37-173-31.

**§ 37-173-13. Maximum scholarship; report by nonpublic schools; disbursement of payments to nonpublic schools [Repealed effective July 1, 2016].**

(1) The maximum scholarship granted per eligible student with dyslexia shall be an amount equivalent to the Mississippi Adequate Education Program base student cost.

(2)(a) The nonpublic school under this program shall report to the Mississippi Department of Education the number of students with dyslexia who are enrolled in nonpublic schools on the Mississippi Dyslexia Therapy Scholarships as of September 30 of each year in order to determine funding for the subsequent year. Funds may not be transferred from any funding provided to the Mississippi School for the Deaf and the Blind for program participants who are eligible under Section 37-173-5.

(b) The Mississippi Department of Education will disburse payments to nonpublic schools under this program in twelve (12) substantially equal installments. The initial payment shall be made after department verification of admission acceptance, and subsequent payments shall be made upon verification of continued enrollment and attendance at the nonpublic school.

**SOURCES:** Laws, 2012, ch. 560, § 7, eff from and after July 1, 2012.

**Editor's Note** — For repeal of this section, see § 37-173-31.

**Cross References** — Determination of Mississippi Adequate Education Program base student cost, see § 37-151-7.

**§ 37-173-15. Screening of all compulsory-school-age children enrolled in public school for dyslexia; subsequent dyslexia evaluations [Repealed effective July 1, 2016].**

(1)(a) Each local school district shall adopt a policy to ensure that students will be screened in the Spring of kindergarten and the Fall of Grade

1. The component of the screening must include:

- (i) Phonological awareness and phonemic awareness;
- (ii) Sound symbol recognition;
- (iii) Alphabet knowledge;
- (iv) Decoding skills;
- (v) Encoding skills; and
- (vi) Rapid naming.

(b) If a student fails the screener, the parent or legal guardian will be notified of the results of the screener. Subsequent dyslexia evaluations may be administered by licensed professionals, including:

(i) Psychologists, licensed under Chapter 31, Title 73, Mississippi Code of 1972;

(ii) Psychometrists, licensed by the Mississippi Department of Education; or

(iii) Speech Language Pathologists, licensed under Chapter 38, Title 73, Mississippi Code of 1972.

(c) If a student fails the screener, the school district, in its discretion, may perform a comprehensive dyslexia evaluation, such evaluation must be administered by any of the licensed professionals identified under paragraph (b) of this subsection.

(d) If a parent or legal guardian of a student who fails the dyslexia screener exercises the option to have a subsequent evaluation performed, such evaluation shall be administered by any of the licensed professionals identified under paragraph (b) of this subsection, and the resulting diagnosis of the subsequent evaluation must be accepted by the school district for purposes of determining eligibility for placement within a dyslexia therapy program within the current school or to receive a Mississippi Dyslexia Therapy Scholarship for placement in a dyslexia program in another public school or nonpublic special purpose school.

(2) The screening of all compulsory-school-age children enrolled in each local public school district for dyslexia required by subsection (1)(a) of this section shall in no manner nullify or defeat the requirements of the pilot programs adopted by the State Department of Education to test certain students enrolled or enrolling in public schools for dyslexia under Section 37-23-15.



**SOURCES:** Laws, 2012, ch. 560, § 8, eff from and after July 1, 2012.

**Editor's Note** — For repeal of this section, see § 37-173-31.

**§ 37-173-17. Eligibility requirements for nonpublic schools to participate in scholarship program [Repealed effective July 1, 2016].**

(1) To be eligible to participate in the Mississippi Dyslexia Therapy Scholarship for Students with Dyslexia Program, a nonpublic school must:

(a) Be a state accredited special purpose school;

(b) Provide to the department all documentation required for a student's participation, including the nonpublic school's and student's fee schedules, at least thirty (30) days before the first quarterly scholarship payment is made for the student.

(c) Be academically accountable to the parent or legal guardian for meeting the educational needs of the student by, at a minimum, annually providing to the parent or legal guardian a written explanation of the student's progress.

(d) Maintain in this state a physical location where a scholarship student regularly attends classes.

(2) The inability of a nonpublic school to meet the requirements of this subsection shall constitute a basis for the ineligibility of the nonpublic school to participate in the scholarship program as determined by the department.

**SOURCES:** Laws, 2012, ch. 560, § 9, eff from and after July 1, 2012.

**Editor's Note** — For repeal of this section, see § 37-173-31.

**§ 37-173-19. Publication of information regarding Mississippi Dyslexia Therapy Scholarship; annual reports [Repealed effective July 1, 2016].**

(1) The department shall publicize information regarding the Mississippi Dyslexia Therapy Scholarship on the department's official website.

(2) Annually, by December 15, report to the Governor, the Lieutenant Governor, and the Speaker of the House of Representatives the Department of Education's actions with respect to implementing accountability in the scholarship program under this section, any substantiated allegations or violations of law or rule by an eligible nonpublic school under this program concerning the enrollment and attendance of students, the credentials of teachers, background screening of teachers, and teachers' fingerprinting results and the corrective action taken by the Department of Education.

**SOURCES:** Laws, 2012, ch. 560, § 10, eff from and after July 1, 2012.

**Editor's Note** — For repeal of this section, see § 37-173-31.

**§ 37-173-21. Administrative and instructional personnel qualifications [Repealed effective July 1, 2016].**

(1) The State Board of Education in conjunction with each nonpublic school and local school board operating under the provisions of this chapter, may:

(a) Extend the school day or length of the scholastic year;

(b) Develop and establish a curriculum that is consistent with the Mississippi Curriculum Framework in the subject areas of mathematics, social studies, science, music, art and physical education; and

(c) Select, purchase and use textbooks, literature and other instructional materials that would improve educational attainment by students in the school, subject to the approval of the board.

(2) The qualified personnel to facilitate the educational process of learning and instruction for children with dyslexia who attend the schools shall consist of the following:

(a) An administrator or director with additional training in the characteristics of dyslexia;

(b) A dyslexia therapist licensed by the department in dyslexia therapy;

(c) Dyslexia therapists in training participating in a department approved dyslexia therapy graduate internship program; and

(d) Licensed elementary teachers under the supervision of a state department licensed dyslexia therapist.

**SOURCES:** Laws, 2012, ch. 560, § 11, eff from and after July 1, 2012.

**Editor's Note** — For repeal of this section, see § 37-173-31.

**§ 37-173-23. Criminal background checks and fingerprinting of school personnel [Repealed effective July 1, 2016].**

Teachers and other school personnel shall be subject to criminal history record checks and fingerprinting requirements applicable to other public schools under Section 37-9-17(2) and (3).

**SOURCES:** Laws, 2012, ch. 560, § 12, eff from and after July 1, 2012.

**Editor's Note** — For repeal of this section, see § 37-173-31.

**§ 37-173-25. Payment of federal and state aid program monies to participating schools; audit and budget submission requirements [Repealed effective July 1, 2016].**

(1) Each school providing instruction to children with dyslexia shall certify to the State Department of Education its student enrollment in the same manner as local school districts.

(2) The department shall direct the proportionate share of monies generated under federal and state categorical aid programs to the participating

school for serving students eligible for the aid. The state shall ensure that each school is treated equitably in the calculation and disbursement of all federal and state categorical aid program dollars. Each school participating in the scholarship program shall comply with all reporting requirements to receive the aid.

(3)(a) Each school shall adhere to generally accepted accounting principles as promulgated by nationally recognized professional organizations.

(b) Each school shall have its financial records audited annually, at the end of each fiscal year, by the State Auditor and shall file a copy of each audit report and accompanying management letter with the board by July 30.

(4) Nothing in this chapter shall be construed to prohibit any person or organization from providing funding or other assistance to the establishment or operation of any school authorized under this chapter, except religious or sectarian organizations. The State Board of Education, acting on behalf of the participating schools, is authorized to accept gifts, donations, and grants of any kind made to a participating school and to expend or use such gifts, donations, and grants in accordance with the conditions prescribed by the donor; however, no gift, donation, or grant may be accepted if subject to a condition that is contrary to any provision of state law or board rule.

**SOURCES:** Laws, 2012, ch. 560, § 13, eff from and after July 1, 2012.

**Editor's Note** — For repeal of this section, see § 37-173-31.

### **§ 37-173-27. Liability for award or use of Mississippi Dyslexia Therapy Scholarship [Repealed effective July 1, 2016].**

No liability shall arise on the part of the state based on the award or use of a Mississippi Dyslexia Therapy Scholarship.

**SOURCES:** Laws, 2012, ch. 560, § 14, eff from and after July 1, 2012.

**Editor's Note** — For repeal of this section, see § 37-173-31.

### **§ 37-173-29. No expansion of regulatory authority of state over nonpublic schools beyond what is necessary to enforce this chapter [Repealed effective July 1, 2016].**

The inclusion of eligible nonpublic schools within options available to Mississippi public school students does not expand the regulatory authority of the state, its officers, or any school district to impose any additional regulation of nonpublic schools beyond those reasonably necessary to enforce requirements expressly set forth in this chapter.

**SOURCES:** Laws, 2012, ch. 560, § 15, eff from and after July 1, 2012.

**Joint Legislative Committee Note** — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation cor-



rected an error in this section. The reference “this chapter” was substituted for “this section” at the end. The Joint Committee ratified the correction at its August 16, 2012, meeting.

**Editor’s Note** — For repeal of this section, see § 37-173-31.

**§ 37-173-31. Repeal of chapter [Repealed effective July 1, 2016].**

The provisions of this chapter shall stand repealed from and after July 1, 2016.

**SOURCES:** Laws, 2012, ch. 560, § 16, eff from and after July 1, 2012.



## TITLE 39

### LIBRARIES, ARTS, ARCHIVES AND HISTORY

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## CHAPTER 3

### Libraries and Library Commission

#### ARTICLE 1.

#### LIBRARIES.

### **§ 39-3-15. Library boards of trustees; qualifications, appointment, terms of office and compensation of members.**

#### ATTORNEY GENERAL OPINIONS

There is no requirement that advisory boards of trustees within a regional library system be or remain as signatories to the agreement by the governmental entities creating the regional system. Williams, Apr. 1, 2005, A.G. Op. 05-0100.

Once a regional library system is established, and an administrative board of

trustees is appointed, the membership and terms of membership of remaining boards of trustees within the system must be consistent with the requirements of Section 39-3-15, absent any provision which may provide otherwise. Williams, Apr. 1, 2005, A.G. Op. 05-0100.

### **§ 39-3-17. Library boards of trustees; organization; general powers and duties.**

#### ATTORNEY GENERAL OPINIONS

Advisory boards of trustees within a regional library system act in an advisory capacity and do not possess the administrative powers and responsibilities set

forth in Section 39-3-17, which belong to the administrative board. Williams, Apr. 1, 2005, A.G. Op. 05-0100.



§ 39-5-5	LIBRARIES, ARTS, ARCHIVES, ETC.
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IN GENERAL

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39-5-6.	Powers and duties of board of trustees with respect to governor's mansion; employment of and powers and duties of curator of New Capitol Building.
39-5-33.	Authorization to extinguish, abandon and nullify certain conservation easements.

§ 39-5-5. General powers and duties of board of trustees.

**Editor’s Note** — Laws of 2010, ch. 538, § 1, provides:

“SECTION 1. Of the Two Hundred Fifty Thousand Dollars (\$250,000.00) appropriated under House Bill No. 1660, Laws of 1995, and House Bill No. 1797, Laws of 2002, for the purpose of assisting the National Park Service in restoring and repairing the Mississippi Monument at the Vicksburg National Military Park, the Mississippi Department of Archives and History is hereby authorized to utilize the funds remaining from this appropriation for the purpose provided herein. The Department of Archives and History may enter into an agreement with the National Park Service to place the remaining restoration funds in an interest-bearing Maintenance Escrow Account to be distributed to the Department of Archives and History for use in restoring and replacing monuments, markers and/or tablets at the Vicksburg National Military Park or any other landmarks within the City of Vicksburg upon approval and direction provided by the National Park Service and the Friends of Vicksburg National Military Park and Campaign.”

Laws of 2011, ch. 411, § 1, provides:

“SECTION 1. (1) The Department of Finance and Administration, acting on behalf of the Mississippi Department of Archives and History, is authorized to donate to Tougaloo College, all of the rights, title and interest in certain real property under the possession and control of the Department of Archives and History, located in the First Judicial District of Hinds County, Mississippi, subject to the requirements and conditions prescribed in subsection (2) of this section. The property is more particularly described as follows:

“Lots 12 and 13, Block 42, Elaine Resurvey, Part 2, a subdivision according to a map or plat thereof which is on file and of record in the Office of the Chancery Clerk of Hinds County at Jackson, Mississippi, recorded in Plat Book 4 at Page 71, reference to which is hereby made in aid of and as a part of this description;

“AND

“Lot 14, Block 42, Elaine Resurvey, Part 2, a subdivision according to a map or plat thereof which is on file and of record in the Office of the Chancery Clerk of Hinds County at Jackson, Mississippi, recorded in Plat Book 4 at Page 71, reference to which is hereby made in aid of and as a part of this description.

“(2) If at any time after the donation of the real property described in subsection (1) of this section Tougaloo College ceases to use the real property for the purposes intended at the time of donation, Tougaloo College shall forfeit its rights, title and

interest in the real property, and all of the rights, title and interest in the real property shall revert back to the State of Mississippi, to be held for the use and benefit of the Mississippi Department of Archives and History.

“(3) The State of Mississippi shall retain all mineral rights in the property donated under the provisions of this section.”

Laws of 2012, ch. 365, § 1, provides:

“SECTION 1. (1) The Department of Finance and Administration, acting on behalf of the Department of Archives and History, is authorized to extinguish the preservation deed of easement on the historic Corinth Machinery Building, located in the City of Corinth, Alcorn County, Mississippi, subject to the conditions of subsection (2). The easement is more particularly described as having been:

“Granted on May 17, 2002, as an easement for the preservation of the Corinth Machinery Building, granted in perpetuity to the Mississippi Department of Archives and History by one, David Campbell and one, Chris Chain, Partners d/b/a Camp-Chain, a Partnership, their successors and assigns, for the purpose of protecting the public's investment in the preservation of said building.

“Said easement being granted to the Mississippi Department of Archives and History in consideration of a Certified Local Government grant in the amount of Two Thousand Five Hundred Dollars (\$2,500.00) awarded to the City of Corinth and Camp-Chain Partnership for repairs to the Corinth Machinery Building; and a second grant to the City of Corinth in 2010 in the amount of Two Thousand One Hundred Sixty Dollars (\$2,160.00) for additional investigation of said historic structure; and

“(2) The preservation deed of easement on the historic Corinth Machinery Building property described in subsection (1) of this section shall not be extinguished by the Department of Finance and Administration, acting on behalf of the Mississippi Department of Archives and History, unless and until the Old Corinth Machinery, LLC, repays the publicly funded grant in the amount of Four Thousand Six Hundred Sixty Dollars (\$4,660.00), with interest, to the Mississippi Landmark Grant Fund for the benefit and preservation of other historic properties.”

### **§ 39-5-6. Powers and duties of board of trustees with respect to governor's mansion; employment of and powers and duties of curator of New Capitol Building.**

The duties and powers of the Board of Trustees of the Department of Archives and History shall include, in addition to other duties and powers granted or prescribed by law, the following:

(a) To promulgate rules and regulations governing the use of the historic portion of the Governor's Mansion;

(b) To promulgate rules and regulations governing the acquisition of furniture and furnishings, including, but not limited to, carpets, rugs, paintings, draperies and objects of art, for the original or historic portion of the Governor's Mansion;

(c) To employ a curator of the mansion who shall have the following duties:

(i) To maintain a descriptive inventory of and be responsible for the care and custody of all furniture and furnishings in the Governor's Mansion that have been catalogued by the Department of Archives and History, including flat silver and silver hollowware. However, the Department of Finance and Administration shall maintain a descriptive inventory of and be responsible for the care and custody of all publicly owned

furniture and furnishings in the Governor's Mansion that have not been catalogued by the Department of Archives and History, including flat silver and silver hollowware; and

(ii) To conduct an educational training program for staff and volunteer guides who may conduct tours of the mansion when it is open to the public at specified times agreed upon by the Governor;

(d) To promote the donation or loaning of money or property, real or personal, from any agency of the United States, state or local government, any person, firm, corporation, association or group, for the purpose of furnishing or decorating the original or historic portion of the Governor's Mansion;

(e) To accept such donations of money or property, real or personal, from any agency of the United States, state or local government, any person, firm, corporation, association or group, for the purpose of furnishing or decorating the original or historic portion of the Governor's Mansion, provided that the board of trustees shall not be required to accept any donation of furniture or furnishings without its consent;

(f) To sell, donate or otherwise dispose of unused surplus property of the Governor's Mansion, excluding any property located in the mansion which belongs to the Governor's Office, and to deposit the proceeds of such sales in the Governor's Mansion Fund of the Board of Trustees of the Department of Archives and History for use, in the board's discretion, in acquiring furniture or furnishings, including, but not limited to, carpets, rugs, paintings, draperies and objects of art, for the original or historic portion of the Governor's Mansion;

(g) To review and approve any major changes in the architecture, furniture, furnishings, decoration or landscaping of the grounds of the Governor's Mansion; and

(h) To employ a Curator of the New Capitol Building, who shall have the following powers and duties:

(i) To oversee, initiate, approve and monitor the care of the New Capitol Building and grounds to ensure long-term preservation, conservation and maintenance of the building, historic furnishings and grounds;

(ii) To coordinate with personnel of the Department of Finance and Administration and the project professionals on any repair, renovation or restoration plans for the New Capitol Building or grounds, ensuring that all work is in accordance with the Secretary of the Interior's Standards for Rehabilitation;

(iii) To request quotations for projects at the New Capitol Building or grounds upon instructions from the Department of Finance and Administration; apply for permits from the Department of Archives and History when applicable; request that projects be initiated through the proper agency and serve as the in-house professional depending upon the scope of work; and maintain contact with any project professional involved in a project, beginning with the bid or quote process through initiation and completion of the project;



(iv) To coordinate special state events held at the New Capitol Building or grounds other than those held in the Chambers of the House of Representatives or the Senate;

(v) To serve as a liaison to the Clerk of the House of Representatives, Secretary of the Senate, Department of Finance and Administration, Department of Archives and History and project professionals on all projects at the New Capitol Building or grounds;

(vi) To coordinate with the Capitol Hostess on tours and events for the public held at the New Capitol Building or grounds; and

(vii) To perform such other duties relating to the New Capitol Building or grounds as prescribed by the director of the department.

**SOURCES:** Laws, 1974, ch. 337; Laws, 1979, ch. 438, § 14 1980, ch. 349, § 1; Laws, 2012, ch. 487, § 1, eff from and after July 1, 2012.

**Amendment Notes** — The 2012 amendment rewrote (c); added (h); and made minor stylistic changes.

### **§ 39-5-33. Authorization to extinguish, abandon and nullify certain conservation easements.**

The Department of Archives and History is hereby authorized to extinguish, abandon and nullify any conservation easement granted to it by The Friends of the Siege and Battle of Corinth, Inc., its successors and similar organizations, whenever the department determines, in its discretion, that such action would be necessary or convenient for the use or ownership of such lands by the United States National Park Service.

**SOURCES:** Laws, 2011, ch. 507, § 3, eff from and after passage (approved Apr. 26, 2011.)

## **GRANT ASSISTANCE FOR PRESERVATION OF HISTORIC COUNTY COURTHOUSES, SCHOOL BUILDINGS, AND OTHER HISTORIC PROPERTIES**

SEC.  
39-5-145. Mississippi Community Heritage Preservation Grant Fund.

### **§ 39-5-145. Mississippi Community Heritage Preservation Grant Fund.**

(1) A special fund, to be designated the “Mississippi Community Heritage Preservation Grant Fund,” is created within the State Treasury. The fund shall be maintained by the State Treasurer as a separate and special fund, separate and apart from the General Fund of the state. The fund shall consist of any monies designated for deposit therein from any source, including proceeds of any state general obligation bonds designated for deposit therein. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund and any interest earned or investment earnings on

amounts in the fund shall be deposited into the fund. The expenditure of monies deposited into the fund shall be under the direction of the Department of Finance and Administration, based upon recommendations of the Board of Trustees of the Department of Archives and History, and such funds shall be paid by the State Treasurer upon warrants issued by the Department of Finance and Administration. Monies deposited into such fund shall be allocated and disbursed according to the provisions of this section. If any monies in the special fund are derived from proceeds of state general obligation bonds and are not used within four (4) years after the date such bond proceeds are deposited into the special fund, then the Department of Finance and Administration shall provide an accounting of such unused monies to the State Bond Commission.

(2) Monies deposited into the fund shall be allocated and disbursed as follows:

(a)(i) Twenty-five Million Six Hundred Thousand Dollars (\$25,600,000.00) shall be allocated and disbursed as grants on a reimbursable basis through the Department of Finance and Administration, based upon the recommendations of the Board of Trustees of the Department of Archives and History, to assist county governments, municipal governments, school districts and nonprofit organizations that have obtained Section 501(c)(3) tax-exempt status from the United States Internal Revenue Service in helping pay the costs incurred in preserving, restoring, rehabilitating, repairing or interpreting 1. historic county courthouses, 2. historic school buildings, and/or 3. other historic properties identified by certified local governments. Where possible, expenditures from the fund shall be used to match federal grants or other grants that may be accessed by the Department of Archives and History, other state agencies, county governments or municipal governments, school districts or nonprofit organizations that have obtained Section 501(c)(3) tax-exempt status from the United States Internal Revenue Service. Any properties, except those described in paragraphs (b) and (d) of this subsection, receiving monies pursuant to this section must be designated as "Mississippi Landmark" properties prior to selection as projects for funding under the provisions of this section.

(ii) One Million Seven Hundred Fifty Thousand Dollars (\$1,750,000.00) shall be allocated and disbursed as grants through the Department of Finance and Administration, based upon the recommendations of the Board of Trustees of the Department of Archives and History, to assist county governments in helping pay the costs of historically appropriate restoration, repair and renovation of historically significant county courthouses. Grants to individual courthouses under this paragraph (a) (ii) shall not exceed Eight Hundred Seventy-five Thousand Dollars (\$875,000.00).

(b) Two Hundred Fifty Thousand Dollars (\$250,000.00) shall be allocated and disbursed as grant funds to the Amory Regional Museum in Amory, Mississippi, to pay the costs of capital improvements, repair, reno-

vation, furnishing and/or equipping of the museum. The Department of Finance and Administration is directed to transfer Two Hundred Fifty Thousand Dollars (\$250,000.00) from the fund to the city on or before December 31, 2004, and the city shall place the funds into an escrow account. The city may expend the funds from the account only in an amount equal to matching funds that are provided from any source other than the state for the project. As the funds are withdrawn from the escrow account, the city shall certify to the Department of Finance and Administration the amount of the funds that have been withdrawn and that the funds withdrawn are in an amount equal to matching funds required by this paragraph.

(c) One Hundred Thousand Dollars (\$100,000.00) shall be allocated and disbursed as grant funds to the Jacinto Foundation, Inc., to pay the costs of capital improvements, repairing, renovating, restoring, rehabilitating, preserving, furnishing and/or equipping the courthouse and related facilities in Jacinto, Mississippi, and to pay the costs of capital improvements, repairing, renovating, restoring, rehabilitating, preserving, furnishing and/or equipping other buildings and facilities near the courthouse.

(d) Four Hundred Twenty-five Thousand Dollars (\$425,000.00) shall be allocated and disbursed as grant funds to the Oxford-Lafayette County Heritage Foundation to pay the costs of capital improvements, repairing, renovating, restoring, rehabilitating, preserving, furnishing, equipping and/or acquiring the L.Q.C. Lamar Home in Oxford, Mississippi.

(e) Seventy-five Thousand Dollars (\$75,000.00) shall be allocated and disbursed as grant funds to the City of Columbus, Mississippi, to assist in paying the costs associated with repair, renovation and restoration of the Columbus City Hall building and related facilities.

(f) One Million Dollars (\$1,000,000.00) shall be allocated and disbursed as grant funds to the Town of Wesson, Mississippi, to pay the costs of restoration and renovation of the Old Wesson School.

(g) Three Hundred Fifty-three Thousand Dollars (\$353,000.00) shall be allocated and disbursed as grant funds to the National West Point Alumni Association to pay the costs of capital improvements, repairing, renovating, restoring, rehabilitating, preserving and/or reconstructing the historic Northside School in West Point, Mississippi.

(h) Monies in the Mississippi Community Heritage Preservation Grant Fund which are derived from proceeds of state general obligation bonds may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Department of Archives and History in providing assistance directly related to a project described in paragraph (a) of this subsection for which funding is provided under this section. Reimbursement may be made only until such time as the project is completed. An accounting of actual costs incurred for which reimbursement is sought shall be maintained for each project by the Mississippi Department of Archives and History. Reimbursement of reasonable actual and necessary costs for a project shall not exceed three percent (3%) of the proceeds of bonds issued for such project. Monies authorized for a particular project may not be used to reimburse administrative costs for unrelated projects.



(3)(a) The Board of Trustees of the Department of Archives and History shall receive and consider proposals from county governments, municipal governments, school districts and nonprofit organizations that have obtained Section 501(c)(3) tax-exempt status from the United States Internal Revenue Service for projects associated with the preservation, restoration, rehabilitation, repair or interpretation of (i) historic courthouses, (ii) historic school buildings, and/or (iii) other historic properties identified by certified local governments. Proposals shall be submitted in accordance with the provisions of procedures, criteria and standards developed by the board. The board shall determine those projects to be funded and may require matching funds from any applicant seeking assistance under this section. This subsection shall not apply to projects described in subsection (2)(a)(ii), (2)(b), (2)(c), (2)(d), (2)(e), (2)(f) and (2)(g) of this section.

(b) The Board of Trustees of the Department of Archives and History shall receive and consider proposals from county governments for projects associated with historically appropriate restoration, repair and renovation of historically significant county courthouses. Proposals shall be submitted in accordance with the provisions of procedures, criteria and standards developed by the board. The board shall determine those projects to be funded and may require matching funds from any applicant seeking assistance under this section. This subsection shall not apply to projects described in subsection (2)(a)(i), (2)(b), (2)(c), (2)(d), (2)(e), (2)(f) and (2)(g) of this section.

(4) The Department of Archives and History shall publicize the Community Heritage Preservation Grant Program described in this section on a statewide basis, including the publication of the criteria and standards used by the department in selecting projects for funding. The selection of a project for funding under the provisions of this section shall be made solely upon the deliberate consideration of each proposed project on its merits. The board shall make every effort to award the grants in a manner that will fairly distribute the funds in regard to the geography and cultural diversity of the state. This subsection shall not apply to projects described in subsection (2)(b), (2)(c), (2)(d), (2)(e), (2)(f) and (2)(g) of this section.

(5) With regard to any project awarded funding under this section, any consultant, planner, architect, engineer, exhibit contracting firm, historic preservation specialist or other professional hired by a grant recipient to work on any such project shall be approved by the board before their employment by the grant recipient.

(6) Plans and specifications for all projects initiated under the provisions of this section shall be approved by the board before the awarding of any contracts. The plans and specifications for any work involving "Mississippi Landmark" properties shall be developed in accordance with "The Secretary of the Interior's Standards for the Treatment of Historic Properties."

**SOURCES:** Laws, 2001, ch. 541, § 21; Laws, 2002, ch. 543, § 17; Laws, 2003, ch. 509, § 17; Laws, 2004, 3rd Ex Sess, ch. 1, § 207; Laws, 2006, ch. 538, § 16; Laws, 2007, ch. 607, § 8; Laws, 2009, ch. 557, § 6; Laws, 2010, ch. 533, § 50;

**Laws, 2011, ch. 425, § 1; Laws, 2011, ch. 480, § 31, eff from and after passage (approved Apr. 6, 2011.)**

**Joint Legislative Committee Note** — Section 1 of ch. 425, Laws of 2011, effective from and after July 1, 2011 (approved March 16, 2011), amended this section. Section 31 of ch. 480, Laws of 2011, effective from and after passage (approved April 6, 2011), also amended this section. As set out above, this section reflects the language of Section 31 of ch. 480, Laws of 2011, which contains language that specifically provides that it supersedes § 39-5-145 as amended by Laws of 2011, ch. 425. ~

**Amendment Notes** — The 2009 amendment substituted “Twenty-three Million Three Hundred Fifty Thousand Dollars (\$23,350,000.00)” for “Twenty-two Million One Hundred Fifty Thousand Dollars (\$22,150,000.00)” at the beginning of (2)(a)(i).

The 2010 amendment, in the first sentence in (2)(a)(i), substituted “Twenty-four Million Three Hundred Fifty Thousand Dollars (\$24,350,000.00)” for “Twenty-three Million Three Hundred Fifty Thousand Dollars (\$23,350,000.00)” and redesignated subparagraphs (i), (ii) and (iii) as 1., 2. and 3., respectively; and made a minor stylistic change at the end of (2)(b).

The first 2011 amendment (ch. 425), added language beginning “and to pay the costs of capital improvements, repairing, renovating, restoring” at the end of (2)(c); substituted “to assist in paying the costs ... and related facilities” for “Federal/State Programs Department to pay the costs of capital improvements, repairing, renovating, restoring, rehabilitating, preserving, reconstructing, furnishing and/or equipping the Queen City Hotel in Columbus, Mississippi” the end of (2)(e); added (2)(g) and redesignated former (2)(g) as (2)(h); in (3)(a), substituted “(i)” for “(a)”, “(ii)” for “(b)”, “(iii)” for “(c)” in the first sentence, and inserted “and (2)(g)” preceding of this section” near the end of the last sentence; inserted “and (2)(g)” in the last sentence of (3)(b) and (4).

The second 2011 amendment (ch. 480), substituted “Twenty-five Million Six Hundred Thousand Dollars (\$25,600,000.00)” for “Twenty-four Million Three Hundred Fifty Thousand Dollars (\$24,350,000.00)” at the beginning of (2)(a)(i).

## HISTORIC SHIPWRECK PROJECT

SEC.

39-5-151. Recovery and restoration of historic shipwreck at state site 22Ja542; historic shipwreck project fund.

### **§ 39-5-151. Recovery and restoration of historic shipwreck at state site 22Ja542; historic shipwreck project fund.**

(1) The Mississippi Department of Archives and History is authorized to proceed with implementing the recovery and restoration of the historic shipwreck site near the eastern shore of the Bay of Biloxi designated as state site 22Ja542. The department shall implement a program to publicize the historic nature of the site and to involve the private sector to the greatest extent possible.

(2) The Department of Marine Resources, the University of Southern Mississippi, the Mississippi Development Authority and any other agency upon request by the Department of Archives and History shall to the greatest extent practical, assist the Department of Archives in the recovery and restoration project.

(3)(a) There is created in the State Treasury a fund designated for the historic shipwreck project. The fund may receive monies from any available private or public source.

(b) Expenditures may be made from the fund upon requisition by the executive director of the department of Archives and History.

(c) The fund shall be treated as a special trust fund. Interest earned on the principal shall be credited by the Treasurer to the fund.

(4) The executive director shall file an annual report detailing the receipts and expenditures with the chairpersons of the House and Senate Appropriations Committees.

**SOURCES:** Laws, 2010, ch. 509, § 8, eff from and after passage (approved Apr. 13, 2010.)

## CHAPTER 7

### Antiquities

#### § 39-7-7. General duties of board of trustees of department of archives and history.

**Cross References** — Lowest and best bid decision procedure for Mississippi landmarks, see § 31-7-13.

#### § 39-7-11. Designation of sites, objects, etc., upon lands belonging to state or political subdivision as Mississippi landmarks; recording; alteration, excavation, etc., of sites.

**Cross References** — Lowest and best bid decision procedure for Mississippi landmarks, see § 31-7-13.

## CHAPTER 11

### Mississippi Arts Commission

SEC.  
39-11-13. Building Fund for the Arts [Paragraph (2)(b) repealed effective July 1, 2014].

#### § 39-11-13. Building Fund for the Arts [Paragraph (2)(b) repealed effective July 1, 2014].

(1)(a) A special fund, to be designated as the “Building Fund for the Arts,” is created within the State Treasury. The fund shall be maintained by the State Treasurer as a separate and special fund, separate and apart from the General Fund of the state. The fund shall consist of any money designated for deposit therein from any source, including, but not limited to, any state general obligation bonds issued for the purposes described in this section. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and investment earnings on amounts in the fund shall be deposited into such fund.

(b) Money deposited into the fund shall be disbursed, in the discretion of the Mississippi Arts Commission, to provide grants to nonprofit organi-



zations that are qualified as tax exempt under Section 501(c)(3) of the Internal Revenue Code and units of local government to pay the costs of:

(i) Repair, upgrading, expansion, renovation or enhancement of existing buildings and facilities for the presentation, teaching or exhibition of the arts in any and all of its forms and furniture, equipment and/or technology for such buildings or facilities;

(ii) Construction of new buildings and facilities for the presentation, teaching or exhibition of the arts in any and all of its forms and furniture, equipment and/or technology for such buildings or facilities; or

(iii) The development, construction, equipping and furnishing of an entertainment and film center and museum and completion of a sound stage project.

(c) The entity to which such grants are made shall provide matching funds from local, federal or private sources equal to forty percent (40%) of the proposed project cost in order to be eligible for a grant under this section.

(d) The maximum aggregate amount of monies in the special fund that may be used to provide grant funds to an entity or combination of entities under paragraph (b)(iii) of this subsection shall not exceed One Million Dollars (\$1,000,000.00), and no monies in the special fund may be used to provide grant funds under paragraph (b)(iii) of this subsection after July 1, 2003. The maximum aggregate amount of grant funds that may be provided to an entity or combination of entities under paragraph (b)(iii) of this subsection during a fiscal year shall not exceed Five Hundred Thousand Dollars (\$500,000.00).

(2)(a) Amounts deposited into such special fund shall be disbursed to pay the costs of projects described in subsection (1) of this section. If any monies in the special fund are derived from proceeds of bonds issued under Sections 3 through 18 of Chapter 541, Laws of 2001, as amended by Chapter 540, Laws of 2002, as amended by Chapter 519, Laws of 2003, as amended by Chapter 1, Laws of 2004 Third Extraordinary Session, as amended by Chapter 538, Laws of 2006, as amended by Section 1 of Chapter 607, Laws of 2007, and are not used within four (4) years after the date such bond proceeds are deposited into the special fund, then the Mississippi Arts Commission shall provide an accounting of such unused monies to the State Bond Commission.

(b) Monies in the special fund which are derived from proceeds of bonds issued after April 9, 2002, may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Arts Commission in providing assistance directly related to a project described in subsection (1) of this section for which grant funds are provided under this section from the use of proceeds of such bonds. Reimbursement may be made only until such time as the project is completed. An accounting of actual costs incurred for which reimbursement is sought shall be maintained for each project by the Mississippi Arts Commission. Reimbursement of reasonable actual and necessary costs for a project shall not exceed three percent (3%) of the proceeds of bonds issued for such project. Monies authorized for a particular

project may not be used to reimburse administrative costs for unrelated projects. This paragraph (b) shall be repealed from and after July 1, 2014.

(3) The Mississippi Arts Commission is expressly authorized and empowered to receive and expend any local or other source funds in connection with the expenditure of funds provided for in this section. The expenditure of money deposited into the special fund shall be under the direction of the Mississippi Arts Commission, and such funds shall be paid by the State Treasurer upon warrants issued by the Department of Finance and Administration upon request of the Mississippi Arts Commission, which warrants shall be issued upon requisitions signed by the Executive Director of the Mississippi Arts Commission, or his or her designee.

(4) The Mississippi Arts Commission shall adopt necessary rules and regulations to govern the administration of the program described in subsection (1) of this section, including, but not limited to, rules and regulations governing applications for grants and rules and regulations providing for the distribution of grant funds. The Mississippi Arts Commission shall comply with the provisions of the Mississippi Administrative Procedures Law.

**SOURCES:** Laws, 2001, ch. 541, § 2; Laws, 2002, ch. 540, § 2; Laws, 2003, ch. 519, § 2; 2004, 3rd Ex Sess, ch. 1, § 209; Laws, 2005, ch. 458, § 1; Laws, 2006, ch. 538, § 10; Laws, 2007, ch. 377, § 1; Laws, 2007, ch. 607, § 2; Laws, 2008, ch. 354, § 1; Laws, 2011, ch. 398, § 1, eff from and after July 1, 2011.

**Editor's Note** — This section is being set out to correct an error in the 2011 Cumulative Supplement. In (1)(b)(i), the phrase “equipment and/or” was substituted for “equipment and/or.”

**Amendment Notes** — The 2008 amendment extended the date of the repealer for paragraph (2)(b) by substituting “July 1, 2011” for “July 1, 2008.”

The 2011 amendment extended the repealer provision from “July 1, 2011” to “July 1, 2014” in (2)(b).

## CHAPTER 13

### Historic Preservation Districts and Landmarks

#### § 39-13-1. Short title.

#### ATTORNEY GENERAL OPINIONS

A local historic preservation commission established under Sections 39-13-1 et seq. cannot be solely an advisory body. Nowak, Apr. 28, 2006, A.G. Op. 06-0143.

A municipal court judge would be violating the separation of powers doctrine

by serving on an historic preservation commission. Belk, June 30, 2006, A.G. Op. 06-0244.

## CHAPTER 15

## Municipal and County Funds to Support the Arts

## § 39-15-1. Authority of municipal and county government to expend general fund monies in support of the arts.

## ATTORNEY GENERAL OPINIONS

While a county or municipality may condition a donation upon the availability of matching funds by evidencing an intent to expend the funds, the funds may not actually be spent until the matching funds are actually available. The pertinent in-

quiry is not how much time is reasonable before matching funds are secured, but whether, when the public funds are expended, the matching funds are in fact "available." Brooks, Apr. 7, 2006, A.G. Op. 06-0061.

## CHAPTER 23

## Mississippi Children's Museum

## § 39-23-3. Location of Mississippi Children's Museum.

## ATTORNEY GENERAL OPINIONS

The Department of Finance and Administration has the discretion to determine whether any item or service will be accepted as an in-kind match and to determine whether the value assigned to the in-kind match is in fact the fair market value. Stringer, Mar. 4, 2005, A.G. Op. 05-0029.

Matching funds must actually be received by the Department of Finance and Administration in order to declare by resolution the necessity for the issuance of bonds, or the Department must determine

that matching funds in fact exist and are legally obligated to be transferred to it a date certain or upon the happening of an event, i.e., the issuance of the bonds. Stringer, Mar. 4, 2005, A.G. Op. 05-0029.

The Department of Finance and Administration is authorized to declare by resolution, at one time or from time to time, the necessity for issuance of general obligation bonds for the creation of a children's museum. Stringer, Mar. 4, 2005, A.G. Op. 05-0029.

## CHAPTER 27

## Mississippi Blues Commission

SEC.

39-27-1.

Mississippi Blues Commission created; "blues" defined; powers, functions and duties of commission; composition of membership; compensation; report; creation of special fund.



**§ 39-27-1. Mississippi Blues Commission created; “blues” defined; powers, functions and duties of commission; composition of membership; compensation; report; creation of special fund.**

(1) There is created the Mississippi Blues Commission, hereinafter referred to as the “commission.” The commission may accept and expend grants and private donations from any source, including federal, state, public and private entities, to assist it to carry out its functions.

(2) For purposes of this chapter, the term “blues” shall mean African-American roots music and the culture that created it.

(3) The powers, functions and duties of the commission shall include, but shall not be limited to, the following:

(a) To study, deliberate and report to the Governor and the Legislature on the best method or plan to market and foster an appreciation of the blues, to include tourism, academic study and blues archives, blues historical preservation, blues cultural education and the support of performing artists. The marketing plan shall be designed to attract tourists, conferences, music performances, filmmakers and others for the purpose of economic development of all geographic areas of the state, through the promotion of the blues and the heritage and culture that produced the blues, and to analyze the tourism potential of the blues for Mississippi.

(b) To make an inventory of blues “assets” that make up the blues and blues culture that could be developed into a program for domestic and international tourism, and opportunities for investment.

(c) To establish a statewide Mississippi “Blues Trail” infrastructure to offer to tourists and targeted groups a structured tour of Mississippi blues historical sites and performance venues.

(d) To coordinate with the Division of Tourism of the Mississippi Development Authority, the Department of Archives and History, the Mississippi Department of Transportation, the Mississippi Educational Television Authority, the State Institutions of Higher Learning, the Center for the Study of Southern Culture at the University of Mississippi, the University Center for Economic Development at Mississippi Valley State University, the Delta Center for Culture and Learning at Delta State University, the Delta Blues Museum, the Delta Music Institute, the Mississippi Arts Commission and similar organizations in the sharing of resources and information in order to ensure a comprehensive approach to marketing the blues and blues culture in Mississippi.

(e) To make recommendations regarding the establishment of, and budgeting for, a permanent Mississippi Office of the Blues as an agency of state government with an executive director and appropriate staff to carry out the marketing plan developed by the commission. To the extent practical, any office shall be located at an existing public or private location which is appropriate to the blues or blues culture in Mississippi, with minimal cost to the state.

(f) To coordinate the blues marketing plan with any existing state historic preservation programs, in order to:

(i) Identify and preserve blues historic properties or sites;

(ii) Determine the eligibility of those properties or sites for listing on the National Register;

(iii) Prepare nominations of those properties or sites for inclusion on the National Register;

(iv) Maintain blues historical and archaeological data bases; and

(v) Evaluate those properties and sites for eligibility for state and federal preservation incentives.

(g) To raise and expend grant funds to provide assistance to any blues musicians in need.

(4) The commission shall be composed of the following members:

(a) The Director of the Division of Tourism of the Mississippi Development Authority;

(b) The Executive Director of the Mississippi Department of Archives and History, or his designee;

(c) The Executive Director of the Mississippi Arts Commission, or his designee;

(d) The Executive Director of the Mississippi Educational Television Authority, or his designee;

(e) The Director of the Center for the Study of Southern Culture at the University of Mississippi;

(f) Until April 10, 2008, the Director of the University Center for Economic Development at Mississippi Valley State University, and after April 10, 2008, a person designated by the President of Mississippi Valley State University;

(g) The Director of the Delta Center for Culture and Learning at Delta State University;

(h) The President of the B.B. King Museum and Delta Interpretive Center;

(i) The State Director of the USDA Rural Development Agency;

(j) Two (2) members of the Mississippi Senate designated by the Lieutenant Governor, who shall serve on a nonvoting basis;

(k) Two (2) members of the Mississippi House of Representatives designated by the Speaker of the House, who shall serve on a nonvoting basis;

(l) Two (2) members appointed by the Governor, who shall have experience in cultural affairs or tourism development in the Mississippi Delta; and

(m) Four (4) members appointed by the Governor from the state at large, who shall have demonstrated a commitment to the understanding and promotion of the blues.

(5) The Governor shall designate one (1) commission member to serve as chairman for a term concurrent with that of the Governor. The commission shall meet upon the call of the chairman not later than August 1, 2004, and

shall organize for business by adopting internal organizational procedures necessary for efficient operation of the commission, including officers, quorum requirements and policies for any commission staff. Each member of the commission shall designate necessary staff of his or her respective agency, department, university or business entity, as the case may be, to provide administrative support to assist the commission in performing its duties and responsibilities. The commission shall meet and conduct business at least quarterly each year. Meetings of the commission shall be open to the public and opportunity for public comment shall be made available.

(6) Members of the commission shall receive no compensation for their services.

(7) The commission shall submit a report, including any proposed legislation, to the Governor and to the Legislature before the convening of the 2009 Regular Session. The report shall include a comprehensive state plan for marketing the blues as specifically provided above.

(8) All departments, boards, agencies, officers and institutions of the state, and all subdivisions thereof, shall cooperate with the commission in carrying out its purposes under this chapter.

(9) Any funds or donations received by the commission shall be deposited into a special fund which is created in the State Treasury. The fund shall be maintained by the State Treasurer as a special fund, separate and apart from the General Fund of the state. Unexpended amounts remaining in the special fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned or investment earnings on amounts in the fund shall be deposited to the credit of the special fund.

Monies in the fund shall be expended by the Department of Finance and Administration after receipt of requisitions submitted by the appropriate person designated by the commission. Monies in the special fund may be used by the commission in carrying out its responsibilities under this chapter.

**SOURCES:** Laws, 2004, ch. 391, § 1; Laws, 2008, ch. 476, § 1; Laws, 2010, ch. 368, § 1, eff from and after July 1, 2010.

**Amendment Notes** — The 2008 amendment rewrote the section.

The 2010 amendment added (3)(g); and deleted (10), which was a repealer for the section.

## CHAPTER 31

### Mississippi Bicentennial Celebration Commission [Repealed effective July 1, 2019]

SEC.

39-31-1.

Mississippi Bicentennial Celebration Commission created; composition; organization; compensation; funding and expenditures; Mississippi Bicentennial Celebration Fund [Repealed effective July 1, 2019].



**§ 39-31-1. Mississippi Bicentennial Celebration Commission created; composition; organization; compensation; funding and expenditures; Mississippi Bicentennial Celebration Fund [Repealed effective July 1, 2019].**

(1) There is hereby created a Mississippi Bicentennial Celebration Commission to plan and designate official events in commemoration of the Bicentennial of the establishment of the State of Mississippi.

(2) The commission shall be composed of the following members:

(a) The Governor, or his designee;

(b) The Lieutenant Governor, or his designee;

(c) The Speaker of the House of Representatives, or his designee;

(d) Three (3) members appointed by the Governor, one (1) from each of the Mississippi Supreme Court districts, to serve terms concurrent with that of the Governor;

(e) Three (3) members appointed by the Lieutenant Governor, one (1) from each of the Mississippi Supreme Court districts, and one (1) of whom shall represent the industrial community, to serve terms concurrent with that of the Lieutenant Governor;

(f) Three (3) members appointed by the Speaker of the House of Representatives, one (1) from each of the Mississippi Supreme Court districts, and one (1) of whom shall be a Native American, to serve terms concurrent with that of the Speaker;

(g) Two (2) members appointed by the Board of Trustees of the Mississippi Department of Archives and History, to serve terms of two (2) years; and

(h) The Executive Director of the Mississippi Department of Archives and History, who shall serve as chairman of the commission.

(3) Appointments shall be made within thirty (30) days after the passage of this act by the Legislature, and, within fifteen (15) days thereafter on a day to be designated by the chairman of the commission, the commission shall meet and organize by selecting from its membership a vice chairman who shall also serve as secretary and shall be responsible for keeping all records of the commission. A majority of the members of the commission shall constitute a quorum. In the selection of its officers and the adoption of rules, resolutions and reports, an affirmative vote of a majority of the commission shall be required. All members shall be notified in writing of all meetings, such notices to be mailed at least five (5) days prior to the date on which a meeting is to be held.

(4) The commission shall designate and coordinate programs with respect to the formal Bicentennial celebration and commemoration of the establishment of the State of Mississippi in 1817.

(5) Members of the commission who are not legislators, state officials or state employees shall be compensated at the per diem rate authorized by Section 25-3-69, Mississippi Code of 1972, and shall be reimbursed in accordance with Section 25-3-41, Mississippi Code of 1972, for mileage and actual

expenses incurred in the performance of their duties. Legislative members of the commission shall be paid from the contingent expense funds of their respective houses in the same manner as provided for committee meetings when the Legislature is not in session; however, no per diem or expense for attending meetings of the commission will be paid while the Legislature is in session. No commission member may incur per diem, travel or other expenses unless previously authorized by vote, at a meeting of the commission, which action shall be recorded in the official minutes of the meeting. Nonlegislative members shall be paid from any funds made available to the commission for that purpose.

(6) The commission shall utilize the administrative staff of the Mississippi Department of Archives and History and any other staff assistance made available to it. To effectuate the purpose of this section, any department, division, board, bureau, commission or agency of the state or of any political subdivision thereof shall, at the request of the chairman of the commission, provide to the commission such facilities, assistance and data as will enable the committee properly to carry out its task.

(7) The commission is authorized and empowered to accept and expend funds from any private, public or other source for the purpose of designating, coordinating and providing programs with respect to the formal Bicentennial celebration of the State of Mississippi. Any expenditures by the commission shall be authorized by a majority vote of the nonlegislative members of the commission.

(8) There is hereby created in the State Treasury the Mississippi Bicentennial Celebration Fund, from which expenditures may be made pursuant to appropriation and upon warrant signed by the proper official. Any funds remaining in this fund at the end of the fiscal year shall not lapse but shall remain in the fund.

**SOURCES:** Laws, 2009, ch. 418, § 1, eff from and after July 1, 2009.

**Editor's Note** — The preamble to Laws of 2009, ch. 418, provides:

“WHEREAS, on December 10, 1817, Mississippi was admitted to the Union as the 20th state. David Holmes, who had been serving as territorial Governor since 1809, became the first Governor of the state, and the territorial capital of Natchez continued as the State Capital on a temporary basis. After several relocations, the Mississippi Legislature designated a site known as LeFleur's Bluff on the Pearl River in the center of the state as the Capital City, and in 1822, the city was named 'Jackson' in honor of General Andrew Jackson; and

“WHEREAS, in 2017, the State of Mississippi will celebrate its Bicentennial; and

“WHEREAS, it is altogether proper to have a celebration appropriate to the magnitude of this event, and an extensive planning period is needed to prepare for an event of this scope and historical importance to our state; NOW, THEREFORE,”

Laws of 2009, ch. 418, § 3, provides:

“SECTION 3. Sections 1 and 2 of this act shall stand repealed on January 1, 2019.”

## CHAPTER 32

## Mississippi Country and Western Music Commission

SEC.

39-32-1.

Mississippi Country and Western Music Commission created; commission powers, functions and composition; report; disposition of funds received by commission [Repealed effective July 1, 2015].

**§ 39-32-1. Mississippi Country and Western Music Commission created; commission powers, functions and composition; report; disposition of funds received by commission [Repealed effective July 1, 2015].**

(1) There is hereby created the Mississippi Country and Western Music Commission, hereinafter referred to as the “commission.” The commission may accept and expend grants and private donations from any source, including federal, state, public and private entities, to assist it to carry out its functions.

(2) For purposes of this chapter, the term “country and western music” shall mean country and western, blue grass and related music genre and the culture that created it.

(3) The powers, functions and duties of the commission shall include, but not be limited to, the following:

(a) To study, deliberate and report to the Governor and the Legislature on or before January 1, 2012, on the best method to market and foster an appreciation of country and western music, to include tourism, academic study and country and western music archives, country and western music historical preservation, country and western music cultural education and the support of performing artists. Such marketing plan shall be designed to attract tourists, conferences, music performances, filmmakers and others for the purpose of economic development of all geographic areas of the state through the promotion of country and western music and the heritage and culture that produced such, and to analyze the tourism potential of the country and western music for Mississippi.

(b) To make an inventory of country and western music “assets” that make up country and western music and its culture that could be developed into a program for domestic and international tourism, and opportunities for investment.

(c) Coordination with the Division of Tourism of the Mississippi Development Authority, the Department of Archives and History, the Mississippi Department of Transportation, the Mississippi Educational Television Authority, the state institutions of higher learning, the Center for the Study of Southern Culture at the University of Mississippi, the Mississippi Arts Commission, and similar organizations to share resources and information in order to ensure a comprehensive approach to marketing the country and western music culture in Mississippi.

(d) To make recommendations regarding the establishment of, and budgeting for, a permanent Mississippi office of country and western music



as an agency of state government with an executive director and appropriate staff to carry out the marketing plan developed by the commission. To the extent practical, any office shall be located at an existing public or private location which is appropriate to the country and western music culture in Mississippi, with minimal cost to the state.

(e) Coordination of the country and western music marketing plan with any existing state historic preservation programs, in order to:

(i) Identify and preserve country and western music historic properties;

(ii) Determine the eligibility of such properties for listing on the National Register;

(iii) Prepare nominations of such sites for inclusion on the National Register;

(iv) Maintenance of country and western music historical and archaeological data bases; and

(v) Evaluation of such sites for eligibility for state and federal preservation incentives.

(f) To implement and continue the development and creation of the Mississippi Country Music Trail as outlined in Section 39-33-1, provide oversight of the Trail and its infrastructure, and explore funding opportunities to support continued implementation.

(4) The commission shall be composed of the following members:

(a) The Director of the Division of Tourism of the Mississippi Development Authority;

(b) The Executive Director of the Mississippi Department of Archives and History, or his designee;

(c) The Executive Director of the Mississippi Arts Commission, or his designee;

(d) The Executive Director of the Mississippi Educational Television Authority, or his designee;

(e) The Chairman of the Board of the Southern Arts and Entertainment Center, or his designee;

(f) The Director of the Center for the Study of Southern Culture at the University of Mississippi;

(g) The State Director of the USDA Rural Development Agency;

(h) Two (2) members of the Mississippi Senate designated by the Lieutenant Governor, who shall serve on a nonvoting basis;

(i) Two (2) members of the Mississippi House of Representatives designated by the Speaker of the House, who shall serve on a nonvoting basis;

(j) Two (2) members appointed by the Governor, who shall have experience in cultural affairs or tourism development in East Central Mississippi; and

(k) Four (4) members appointed by the Governor from the state at large, who shall have demonstrated a commitment to the understanding and promotion of country and western music.

(5) The Governor shall designate one (1) commission member to serve as chairman for a term concurrent with that of the Governor. The commission

shall meet upon the call of the chairman not later than July 1, 2011, and shall organize for business by adopting internal organizational procedures necessary for efficient operation of the commission, including officers, quorum requirements and policies for any commission staff. Each member of the commission shall designate necessary staff of their departments to provide administrative support to assist the commission in performing its duties and responsibilities. The commission shall meet and conduct business at least quarterly. Meetings of the commission shall be open to the public and opportunity for public comment shall be made available.

(6) Members of the commission shall receive no compensation for their services.

(7) The commission shall submit a report, including any proposed legislation, to the Governor and to the Legislature before the convening of the 2012 Regular Session. The report shall include a comprehensive state plan for marketing country and western music history as specifically provided above.

(8) All departments, boards, agencies, officers and institutions of the state and all subdivisions thereof shall cooperate with the commission in carrying out its purposes under this chapter.

(9) Any funds or donations received by the commission shall be deposited into a special fund which is hereby created in the State Treasury, and disbursement therefrom shall be made upon warrants by the Department of Finance and Administration after receipt of requisitions submitted by the appropriate person designated by the commission. Monies in the special fund may be used by the commission in carrying out its responsibilities under this chapter.

**SOURCES:** Laws, 2011, ch. 495, § 1, eff from and after passage (approved Apr. 6, 2011.)

**Editor's Note** — Laws of 2011, ch. 495, § 2, effective April 6, 2011, provides:

“SECTION 2. This act shall take effect and be in force from and after its passage, and shall stand repealed from and after July 1, 2015.”

## CHAPTER 33

### Mississippi Country Music Trail

- SEC.  
39-33-1. Division of Tourism of Mississippi Development Authority authorized to create statewide Mississippi Country Music Trail infrastructure; purpose; trail markers; coordination with other organizations to share resources and information; coordination of marketing plan with state historic preservation programs.

**§ 39-33-1. Division of Tourism of Mississippi Development Authority authorized to create statewide Mississippi Country Music Trail infrastructure; purpose; trail markers; coordination with other organizations to share resources and information; coordination of marketing plan with state historic preservation programs.**

The Division of Tourism of the Mississippi Development Authority is authorized and directed to do the following:

(a) To make an inventory of country music “assets” that make up the country music culture that could be developed into a program for domestic and international tourism, and opportunities for investment.

(b) To establish a statewide Mississippi “Country Music Trail” infrastructure to offer to tourists and target groups a structured tour of Mississippi country music historical sites and performance venues.

(c) To designate specific sites for the erection of appropriate “Mississippi Country Music Trail” markers to offer to tourists and targeted groups a structured tour of Mississippi country music historical sites and performance venues. The division shall be authorized to purchase appropriate Mississippi Country Music Trail markers from any of its available funds. The texts for the Mississippi Country Music Trail markers shall be approved by the division. The Mississippi Department of Transportation shall cooperate with the division by erecting and maintaining the markers that have been approved by the division.

(d) To coordinate the Mississippi Country Music Trail program with the Mississippi Department of Archives and History, the Mississippi Department of Transportation, the Mississippi Educational Television Authority, the Board of Trustees of State Institutions of Higher Learning, the Jimmie Rogers Museum, the Center for the Study of Southern Culture at the University of Mississippi, the Delta Center for Culture and Learning at Delta State University, the Mississippi Arts Commission and similar organizations to share resources and information in order to ensure a comprehensive approach to marketing the country music and country music culture in Mississippi.

(e) To coordinate the Mississippi Country Music Trail marketing plan with any existing state historic preservation program, in order to identify and preserve country music historic properties, and determine the eligibility of such properties for listing on the National Register of Historic Places, and prepare nominations of such sites.

**SOURCES:** Laws, 2009, ch. 424, § 1, eff from and after July 1, 2009.

**Cross References** — Mississippi heritage, history and culture trail program, see § 39-37-1.



## CHAPTER 35

**Mississippi Sesquicentennial of the American Civil War Commission**  
**[Repealed effective July 1, 2015]**

SEC.  
 39-35-1. Sesquicentennial of the American Civil War Commission created; composition; terms of office; executive committee; advisory council; quorum; compensation; staff; funding; powers and duties [Repealed effective July 1, 2015].

**§ 39-35-1. Sesquicentennial of the American Civil War Commission created; composition; terms of office; executive committee; advisory council; quorum; compensation; staff; funding; powers and duties [Repealed effective July 1, 2015].**

(1) The Mississippi Sesquicentennial of the American Civil War Commission (commission) is hereby established to prepare for and commemorate the Sesquicentennial of Mississippi's participation in the American Civil War (April 1861-April 1865).

(2) The commission shall have a total membership of fifteen (15) members, or their designee, as follows: (a) the Executive Director of the Mississippi Development Authority; (b) the Executive Director of the Mississippi Department of Archives and History; (c) the State Superintendent of Public Education, or his designee; (d) the Manager of the Bureau of Film and Culture of the Mississippi Development Authority, Division of Tourism; (e) the President/Chairman of the Mississippi Historical Society; (f) the Chairman of the Mississippi Civil War Battlefield Commission; (g) the Director of the Brice's Crossroads Battlefield Commission; (h) the Director of the Vicksburg National Military Park; (i) the Director of the Battle of Shiloh-Battle of Corinth National Military Park; (j) the Director of the Grand Gulf Military Monument; (k) a representative of the Mississippi Tourism Association; (l) the National Park Service Administrator of Ship Island/Fort Massachusetts; (m) a citizen of Mississippi appointed by the Governor; (n) a member of the Mississippi Senate appointed by the Lieutenant Governor who shall serve in an ex officio nonvoting capacity; and (o) a member of the Mississippi House of Representatives appointed by the Speaker who shall serve in an ex officio nonvoting capacity.

(3) Ex officio members and legislative members of the commission shall serve terms coincident with their terms of office. Citizen members shall serve a term of four (4) years. Appointments to fill vacancies other than the expiration of a term shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments and all members may be reappointed.

(4) The commission shall elect a chairman and vice chairman from among its membership. The commission may name five (5) of its members to constitute an executive committee, which shall act for the commission pursuant to its direction.

(5) The commission may appoint and establish an advisory council composed of citizens at large who have knowledge of American Civil War and Mississippi history and interest in its Sesquicentennial celebration, to assist the commission in its work.

(6) A majority of the members of the commission shall constitute a quorum. The meetings of the commission shall be held at the call of the chairman or whenever a majority of the members so request. No recommendation of the commission shall be adopted except by majority vote of the commission.

(7) Nonlegislative members of the commission shall receive no compensation for their services but may receive expense reimbursement and mileage for all reasonable and necessary expenses incurred in the performance of their duties as provided by law. Legislative members of the commission shall receive compensation applicable to committee meetings when the Legislature is not in session.

(8) The commission shall hire an executive director, and relevant support staff, to guide and support the actions of the commission. Employment shall not extend beyond the date of expiration of the commission and shall be subject to an annual review by the executive committee of the commission.

(9) The commission may solicit, accept, use and dispose of public or nonpublic funds, gifts, grants, donations, bequests or other funds or real or personal property for the purpose of aiding or facilitating the work of the commission. The commission may procure services, enter into contracts, leases or other legal agreements as it may deem necessary to carry out its duties as set forth in this act, but no contract or other legal agreement shall be entered into by the commission that extends beyond the date of expiration of the commission.

(10) The commission shall have the following powers and duties:

(a) Plan, develop and carry out educational, informational, new media/web-based programs and activities appropriate to commemorate the Sesquicentennial of the American Civil War, with emphasis on the military operations which occurred in the State of Mississippi;

(b) Encourage interdisciplinary examination of the American Civil War;

(c) Facilitate activities related to the American Civil War throughout Mississippi;

(d) Encourage civic, historical, educational, economic and other organizations throughout Mississippi to organize and participate in activities to expand the understanding and appreciation of the significance of the American Civil War;

(e) Provide technical and financial assistance to localities and nonprofit organizations to further the commemoration of the Sesquicentennial of the American Civil War;

(f) Develop programs and facilities to ensure that the Sesquicentennial commemoration of the American Civil War results in a positive legacy and long-term public benefit;

(g) Facilitate the development and conduct of programs designed to involve all citizens in activities that commemorate the American Civil War; and

(h) Submit to the Legislature and the Governor an annual report for publication of the work and activity of the commission no later than the first day of each regular session of the Legislature.

(11) The commission shall direct the Mississippi Department of Archives and History to enhance and expand Civil War markers across the state, along with all relevant educational and informational documentation necessary for the creation of a Civil War Trail, in advance of the initial celebration of the Sesquicentennial in Mississippi.

(12) All state agencies and universities shall provide technical assistance to the commission upon request.

(13) This section shall stand repealed on July 1, 2015.

**SOURCES:** Laws, 2009, ch. 507, § 4, eff from and after July 1, 2009.

**Joint Legislative Committee Note** — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation changed “(c) the State Department of Education, or his designee” to “(c) the State Superintendent of Public Education, or his designee” in subsection (2). The Joint Committee ratified the correction at its July 22, 2010 meeting.

## CHAPTER 37

### Mississippi Heritage, History and Culture Trail Program

SEC.

39-37-1.

Division of Tourism of Mississippi Development Authority authorized to establish statewide Mississippi heritage, history and culture trail infrastructure; purpose; trail markers; coordination with other organizations to share resources and information.

### **§ 39-37-1. Division of Tourism of Mississippi Development Authority authorized to establish statewide Mississippi heritage, history and culture trail infrastructure; purpose; trail markers; coordination with other organizations to share resources and information.**

The Division of Tourism Development of the Mississippi Development Authority is authorized and directed to do the following:

(a) To develop a marketing plan designed to attract tourists, conferences, music and theatrical performances, filmmakers and others for the purpose of the economic development of all geographic areas of the state through the promotion of projects related to Mississippi’s heritage, history and culture.

(b) To make an inventory of assets related to Mississippi’s heritage, history and culture.



(c) To establish a statewide infrastructure to offer tourists and targeted audiences a structured tour of sites and venues related to Mississippi's heritage, history and culture.

(d) To designate specific sites for the erection of trail markers for the sites and venues related to Mississippi's heritage, history and culture. The division is authorized to approve the texts for the markers and to purchase appropriate markers from any available funds. The Mississippi Department of Transportation shall cooperate with the division by erecting and maintaining the markers that have been approved by the division.

(e) To coordinate the trail program described in paragraph (d) of this section with the Mississippi Department of Archives and History, the Mississippi Authority for Educational Television, and the Board of Trustees of State Institutions of Higher Learning, and similar organizations to share resources and information in order to ensure a comprehensive approach to marketing the story of Mississippi's heritage, history and culture.

(f) To coordinate the trail program described in paragraph (d) of this section with any existing state historic preservation program, in order to identify and preserve historic properties, and determine the eligibility of those properties for listing on the National Register of Historic Places, and prepare nominations of those sites.

**SOURCES:** Laws, 2010, ch. 366, § 1, eff from and after July 1, 2010.

**Cross References** — Department of Archives and History, see §§ 39-5-1 et seq.  
 Historic preservation districts and landmarks, see §§ 39-13-1 et seq.  
 Mississippi Country Music Trail, see § 39-33-1.

## CHAPTER 39

### Mississippi Civil Rights Museum Advisory Commission

SEC.  
 39-39-1. Mississippi Civil Rights Museum Advisory Commission created; composition; responsibilities.

#### § 39-39-1. Mississippi Civil Rights Museum Advisory Commission created; composition; responsibilities.

(1) There is hereby established a Mississippi Civil Rights Museum Advisory Commission (commission) which shall be comprised of the following members:

- (a) The Executive Director of the Mississippi Department of Archives and History;
- (b) The Director of Tourism of the Mississippi Development Authority;
- (c) The President of Tougaloo College, or his or her designee;
- (d) The President of Alcorn State University, or his or her designee;
- (e) The President of Jackson State University, or his or her designee;
- (f) The President of Mississippi Valley State University, or his or her designee;

- (g) The President of Rust College, or his or her designee;
- (h) The President of Mississippi University for Women, or his or her designee;
- (i) The President of Delta State University, or his or her designee;
- (j) The Chancellor of the University of Mississippi, or his or her designee;
- (k) The President of Mississippi State University, or his or her designee;
- (l) The President of the University of Southern Mississippi, or his or her designee;
- (m) Two (2) representatives of the Veterans of the Mississippi Civil Rights Movement, Inc.;
- (n) One (1) representative of the Fannie Lou Hamer Institute;
- (o) The Director of the William F. Winter Institute for Racial Reconciliation;
- (p) Four (4) appointees of the Governor, one (1) from each Mississippi Congressional District;
- (q) Two (2) appointees of the Lieutenant Governor from the state at large; and
- (r) Two (2) appointees of the Speaker of the House of Representatives from the state at large.

(2) The chairman of the commission shall be appointed by the Governor. The commission shall meet on a date announced by the Governor and shall organize for business by adopting rules of procedure. The Mississippi Department of Archives and History shall provide administrative support to the commission and serve as fiscal agent for the commission. Members of the commission shall receive no compensation for attending meetings of the commission; however, members who are not public employees may be reimbursed for actual expenses incurred in attending meetings of the commission from any funds available for that purpose.

(3) The commission shall advise the Mississippi Department of Archives and History regarding matters relating to the Mississippi Civil Rights Museum.

**SOURCES:** Laws, 2011, ch. 522, § 1, eff from and after passage (approved Apr. 26, 2011.)

**Editor's Note** — Laws of 2011, ch. 522, § 3, provides:

“SECTION 3. It is the intent of the Legislature that both of the museums for which funding is provided under Section 2 of this act be open and operational to the public in the year 2017, the Bicentennial Year for the admission of Mississippi to statehood. It is understood that funding authorized under Section 2 of this act will not be sufficient to fully fund the planning, construction, furnishing and equipping of both museums. It is the further intention of the Legislature that a substantial portion of the cost of the acquisition, fabrication and installation of the exhibits for each museum shall be paid from funds derived from private, local and/or federal sources. Upon completion of the construction of the building structures of each museum, subsequent authorizations of funding from the Legislature for the museums will include specific requirements that a significant portion of the funds to be used for the acquisition, fabrication and installation of such exhibits be derived from such alternative sources.”





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